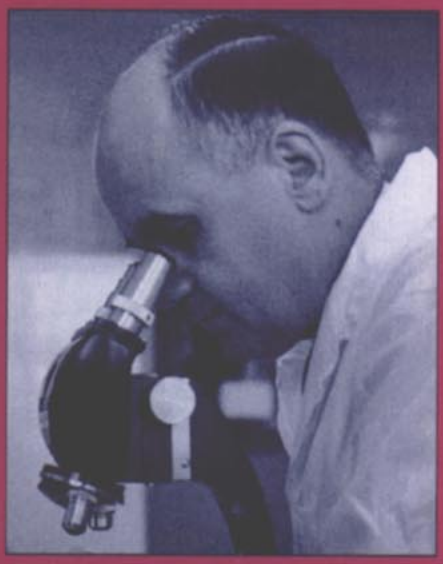
THE FREEMAN

IDEAS ON LIBERTY



The Free Market and Scientific Research

On That Day Began Lies

A Number, Not a Name: Big Brother by Stealth

MAY 1998

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This seminar introduces participants to basic economic concepts such as:

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**If you have previously attended a FEE seminar or are familiar with the freedom philosophy and wish to join us, we recommend that you apply for our Advanced Seminar in Economics and Politics, August 9 to August 14, 1998.

August 1997 Seminar

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Cover photo: Dr. Maurice Hilleman, one of the developers of Pneumovax. Courtesy of Corporate Archives, Merck & Company, Inc.

PERSPECTIVE

Mr. Spencer Versus the State

Herbert Spencer, who would have been 178 years old in April, is a hero of mine. Spencer made himself the very symbol of laissez-faire liberalism in late nineteenth-century England and the United States. He was so much the symbol that he was regularly attacked by the intellectuals who wanted to replace laissez faire—imperfectly as it had developed—with collectivism. This was when the term *liberalism* began to become the label for interventionism. Spencer watched events with horror. It wasn't just that the label was changing. Liberals were changing. In "The New Toryism" (in *The Man Versus the State*), Spencer observed that "Most of those who now pass as Liberals, are Tories of a new type." The New Tories, Spencer said, were former classical liberals who confused rectifying state-generated evil, which was the liberal legacy, with achieving good. The mixed-up liberals came to think that their mission was to use coercive methods to bring about the good directly, rather than leaving people free to achieve their own good. He catalogued the interventions of Prime Minister Gladstone, whom history treats as one of the great liberal leaders of Great Britain. The phenomenon of statists in liberal clothing is not unknown in contemporary American politics.

A despairing Spencer, witnessing "The Coming Slavery" (also in *The Man Versus the State*), said in 1885 that he would no longer write about politics: "The wave of opinion carrying us toward socialism and utter subordination of the individual is becoming irresistible."

How difficult it must have been for the grand old liberal to watch the world move from the edge of liberty, laissez faire, and universal progress toward the abyss of collectivism. He died in 1903, spared the agony of witnessing that triumph of statism, World War I. When the freedom philosophy is fully restored to its rightful place in the public's thinking, Mr. Spencer will assuredly regain the respect he deserves.

* * *

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The free market cannot support basic medical and scientific research. There's a common refrain. Aaron Steelman, however, demonstrates that, like so much that we "know," it ain't so.

In our continuing observance of the centennial of the birth of FEE founding president Leonard E. Read, we reprint his classic "On That Day Began Lies," in which Mr. Read exposes the dangers of all kinds of collectivist thinking.

What's the harm in a town building an ice-skating rink? George Leef offers an instructive lesson in the ways of local interest-group politics.

There are two kinds of people in the world: those who believe society must be designed and those who grasp the idea of undesigned order. The distinction is crucial, as Wendy McElroy shows us.

"He who pays the piper calls the tune." So said the Supreme Court, more or less, in a 1942 landmark case about a farmer who wanted to grow wheat for his own consumption. Jeffrey Snyder points out that the case is usually misinterpreted by freedom's advocates. Its real lesson makes it even more important.

After decades of federal meat inspection, consumers still need to worry about bacteria in their steaks and chops. How could that be? E.C.Pasour puts government inspection under a microscope and finds it tainted.

If all goes as planned, we will be required to have federally approved photo identification cards complete with personal information. Of course, it's for our own protection. Is it, asks Claire Wolfe?

We introduce a new column this month: Dwight Lee's "Economic Notions." In each issue, Lee will discuss a concept key to economics. He begins, appropriately enough, by explaining what interests economists.

Herbert Dow wanted to sell bromine in Europe. The powerful bromine cartel said no. Guess who won? Burton Folsom tells the story of courage and ingenuity.

In this month's "Pursuit of Happiness," Charles Baird decries the law that permits union agents to infiltrate and sabotage private companies.

Lawrence Reed revisits the landmark *Beck* decision. Doug Bandow looks at the positive side of deficits. And Mark Skousen has good news for devotees of Austrian economics.

Book reviews this month take up such matters as children's economic sense, the values of decent people, and free trade.

Enjoy.

—SHELDON RICHMAN

Note: In my February article, "Reading the Second Amendment," I neglected to credit J. Neil Schulman for my knowledge of the letter on punctuation from the American Law Division of the Library of Congress. It is reproduced in his book Stopping Power.

The Freeman—A Tool for Teachers and Homeschoolers

Beginning with this issue, *The Freeman* will become an even better teaching tool. We will use an apple icon to identify articles that are particularly appropriate for teaching high-school students four major subjects: economics, history, government/civics, and philosophy.

Additionally, we will provide sample lesson plans for these articles on our website **www.fee.org** and in written form. Teachers and homeschooling parents need only to visit our website or request written lesson plans to take advantage of this unique service.

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THE FREEMAN
IDEAS ON LIBERTY

The Free Market and Scientific Research

by Aaron Steelman

Opponents of classical liberalism frequently argue that if scientific research is to be done, it must be done by the state. Private organizations, it is claimed, are too myopic to conduct research that frequently has no immediate value.

That attitude has manifested itself recently in discussion over AIDS research. President Clinton has called the development of a vaccine for AIDS "a new national goal for science," one comparable to John F. Kennedy's call for the United States to put a man on the moon. And AIDS activist Wayne Turner has urged the president to do even more, arguing that "great American presidents have mobilized resources in times of national crisis."

But is such rhetoric reasonable? Is it true that the private sector is incapable of funding scientific research? The historical evidence suggests that the answer is no. In fact, the private sector has been responsible for some of mankind's most important scientific breakthroughs.

• In the 1780s Edward Jenner, an English country doctor, began work on a vaccination for smallpox. After more than a dozen years of experiments funded entirely out of his own pocket, he found one. Jubilant, Jenner wanted to share his discovery with a public that had been terrorized by the dreaded disease. He approached the Royal Society of London, hoping that the government-sponsored group would publish the results of his work. He was turned down, told that the concept was too revolutionary and the evidence weak.[1] So he decided to publish the work himself. Appearing in 1798, *An Inquiry into the Causes and Effects of Variolae Vaccinae* quickly became one of the most important books of its kind. In addition to helping slow the spread of smallpox, the book sparked research into vaccinations for a number of other ills.

• In the late 1880s Henry Mulford purchased the "Old Simes" drugstore in Philadelphia. Shortly after he acquired the business, he became bored and decided to enter pharmaceutical development, as did more than 140 other firms in Philadelphia during that period. Although H.K. Mulford Company, as it came to be called, was not initially profitable, Mulford and his investors carried on, and in 1894 they asked Dr. Joseph McFarland of the University of Pennsylvania to join the company. McFarland required a monthly salary of $100. Although money was tight and the company needed to sell 100 shares of stock to finance McFarland's research, the board of directors agreed. McFarland's first project was to develop a diphtheria antitoxin. He accomplished his goal within a year; in the early summer of 1895 Mulford was able to offer for sale the first commercial diphtheria antitoxin produced in the United States. The breakthrough was, as historians Louis Galambos and Jane Eliot Sewell have written, "a credit to an entrepreneurial firm."[2]

Aaron Steelman is staff writer at the Cato Institute.

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• The discovery of the structure of DNA was largely a product of private action. As Terence Kealey reports in his outstanding book, *The Economic Laws of Scientific Research*, O.T. Avery, while working on a cure for pneumonia at the privately funded Rockefeller Institute in the 1940s, became the first person to learn that DNA was the molecule of inheritance. "Once Avery had discovered the importance of DNA," Kealey writes, "the subsequent development of molecular biology was inevitable—thus the discovery of the structure of DNA in 1953 became a race between three teams, Linus Pauling's in Cal Tech, Watson and Crick in Cambridge, and Franklin and Wilkins in London."[3]

• Max Delbrück also considered the financial assistance he received from the Rockefeller Foundation to be critical. He began his career as a physicist but switched to genetics in the mid-1930s, eventually earning the Nobel Prize in medicine for his work on the genetic structure of viruses. "Without the encouragement of the Rockefeller Foundation in 1937 and their continuing support through the mid-forties," Delbrück said, "I believe I would hardly have been able to make my contributions to biology."[4]

• The Rockefeller Foundation was instrumental in bringing penicillin to the market as well. Penicillin had been discovered in 1928 by English scientist Alexander Fleming, but most scientists—including Fleming—believed that it was an unstable substance and doubted its medicinal value. Nevertheless, Oxford researchers Howard Florey and Ernst Chain continued to explore its practical applications, and in early 1939 they applied to the government-run Medical Research Council in England for funding. Their request was rejected, so they turned to the Rockefeller Foundation. Florey, writes Gwyn Macfarlane, "decided to appeal to them for a grant that would support his penicillin research for three years. He asked, in November 1939, for £1,670 per annum for salaries and recurrent expenses and £1,000 for the initial cost of equipment, and he got even more than he asked for, since the Foundation gave him grants for five years. Chain and Florey were naturally elated. With financial worries allayed they could attack the real problem—the production, purification and testing of penicillin—from every available angle."[5] Less than two years later, Chain and Florey had completed their work, and Merck was producing penicillin for both the English and American markets. Chain and Florey shared the Nobel Prize with Fleming in 1945.

• While polio has nearly been eradicated in the United States, it once was a very serious problem. In the early 1950s, on average, more than 300 new cases were reported each week; for some weeks, the figure rose to more than 2,500. And in a poll during that period, more than 60 percent of Americans said that they knew someone afflicted with the disease.[6] Thanks to private organizations like the National Foundation for Infantile Paralysis, however, victims of polio received medical care, and beginning in the mid-1950s nearly all Americans were protected from the disease by vaccine. In her book *Patenting the Sun: Polio and the Salk Vaccine*, Jane S. Smith reports: "Operating without an endowment or a wealthy patron, the National Foundation raised enough money every year to pay for the hospital and rehabilitation costs of any polio patient who needed help." Moreover, she states, "In its heyday in the early 1950s the privately supported and administered Foundation spent ten times as much on polio research as the tax-supported National Institutes of Health."[7]

In 1954 such funding led to the development of a vaccine effective against all three varieties of the polio virus. Galambos and Sewell write: "Much in the style of the large wartime projects, the undertaking sponsored in the early 1950s by the Technical Committee of the National Foundation for Infantile Paralysis had the goal of developing a killed-virus vaccine for polio." They add that the "primary difference between the polio campaign and the wartime ventures was that the polio effort was coordinated by a private foundation and not by the federal government."[8]

Particularly notable is that the National Foundation was not atypical; in the first quarter of this century more than 75 groups were established to raise money to combat specific diseases. For example, the National Tubercu-

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Merck introduced its vaccine for pneumonia in 1977.

losis Association, the American Cancer Society, the National Society for Crippled Children (now the Easter Seal Society), and the American Heart Association all emerged between 1904 and 1924, years before the federal government became heavily involved in health issues and medical research.[9]

• As late as the mid-1960s, few scientists thought that an effective vaccine for pneumonia could be developed, and as a result, the U.S. government spent essentially no funds on the disease.[10] Nevertheless, two researchers at Merck, Maurice Hilleman and Robert Austrian, believed that it was possible to produce a vaccine. In 1970, without government support, they began working on the project, and in 1973 they tested their product, which proved effective in more than 90 percent of test cases. In 1977 Merck began selling the vaccine, named Pneumovax. The research that led to the development of Pneumovax was also critical in the development of a vaccine for bacterial meningitis.[11]

As these examples demonstrate, the private sector is more than capable of conducting important and valuable scientific research. However, today private groups face an important competitor—the federal government—that increasingly crowds out investment and philanthropic giving. Writing in 1950, H.M. Marvin, former president of the American Heart Association, argued: "What are we to say, for example, to the intelligent citizen who expresses the honest conviction that the Federal Government *should* assume the entire responsibility in such fields as cardiovascular diseases, cancer, tuberculosis and mental health? We must face realistically the fact that people with small, moderate, or large incomes are so variously and heavily taxed today that most of them are not only willing but eager to have the government pay for all possible activities out of those taxes."[12] Such a statement is even more true today than when Marvin penned it nearly 50 years ago. If Americans wish to see a renaissance of scientific discovery and innovation, then they must demand that the state sector retreat and allow the private sector to assume its historic role. □

1. Joel N. Shurkin, *The Invisible Fire: Mankind's Victory over Smallpox* (New York: Putnam, 1979), p. 139.
2. Louis Galambos and Jane Eliot Sewell, *Networks of Innovation: Vaccine Development at Merck, Sharp & Dohme, and Mulford, 1895–1995* (New York: Cambridge University Press, 1995), p. 17.
3. Terence Kealey, *The Economic Laws of Scientific Research* (New York: St. Martin's Press, 1996), p. 218.
4. Quoted in Robert Olby, *The Path to the Double Helix* (Seattle: University of Washington Press, 1974), p. 443.
5. Gwyn Macfarlane, *Alexander Fleming: The Man and the Myth* (Cambridge, Mass.: Harvard University Press, 1984), p. 172.
6. David L. Sills, *The Volunteers: Means and Ends in a National Organization* (Glencoe, Ill.: Free Press, 1957), pp. 123–28.
7. Jane S. Smith, *Patenting the Sun* (New York: Morrow, 1990), p. 64.
8. Galambos and Sewell, p. 59.
9. Smith, p. 69.
10. At this time, pneumonia was still the fourth leading cause of death in the United States. Barbara Gutman Rosenkrantz, *From Consumption to Tuberculosis: A Documentary History* (New York: Garland, 1994), p. 5.
11. Galambos and Sewell, pp. 161–79.
12. Quoted in Richard Carter, *The Gentle Legions* (New York: Doubleday, 1961), p. 20.

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On That Day Began Lies

by Leonard E. Read

> From the day when the first members of councils placed exterior authority higher than interior, that is to say, recognized the decisions of men united in councils as more important and more sacred than reason and conscience; on that day began lies that caused the loss of millions of human beings and which continue their unhappy work to the present day.
>
> —LEO TOLSTOY[1]

This is a striking statement. Is it possible that there is something of a wholly destructive nature which has its source in councilmanic, or in group, or in committee-type action? Can this sort of thing generate lies that actually cause the loss of "millions of human beings"?

Any reasonable clue to the unhappy state of our affairs merits investigation. Two world wars that settled nothing except adding to the difficulties of avoiding even worse ones; men lacking in good character rising to positions of power over millions of other men; freedom to produce, to trade, to travel, disappearing from the earth; everywhere the fretful talk of security as insecurity daily becomes more evident; suggested solutions to problems made of the stuff that gave rise to the problems; the tragic spectacle, even here in America, of any one of many union leaders being able, at will, to control a strategic part of the complex exchange machinery on which the livelihood of all depends; these and other perplexities of import combine to raise a tumultuous "why," and to hasten the search for answers.

The Search for Answers

Strange how wide and varied the search, as though we intuitively knew the cause to lie in some elusive, hidden, unnoticed error. The affair is serious. The stake is life itself. And the error or errors, it is agreed at least by the serious-minded, may well be found deep in the thoughts and behaviors of men, even of well-intentioned men. Anyway, everything and everyone is suspect. And, why not? When there is known to be a culprit and the culprit is not known, what other scientifically sound procedure is there?

" . . . on that day began lies. . . ." That is something to think about. Obviously, if every-

Leonard E. Read established FEE in 1946 and served as its president until his death in 1983. This article, first published in 1949, is excerpted from Essays on Liberty, Vol. I *(1952, pp. 231–252). It is the fifth in a monthly series commemorating the 100th anniversary of Mr. Read's birth.*

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thing said or written were lies, then truth or right principles would be unknown. Subtract all knowledge of right principles and there would not be even chaos among men. Quite likely there would be no men at all.

If half of everything said or written were lies. . . .

Human life is dependent not only on the knowledge of right principles but dependent, also, on actions in accordance with right principles. Admittedly there are wrong principles and right principles. However, the nearest that any person can get to right principles—truth—is that which his highest personal judgment dictates as right. Beyond that one cannot go or achieve. *Truth, then, as nearly as any individual can express it, is in strict accordance with this inner, personal dictate of rightness.*

The accurate representation of this inner, personal dictate is intellectual integrity. It is the expressing, living, acting of such truth as any given person is in possession of. Inaccurate representation of what one believes to be right is untruth. It is a lie.

Attaining knowledge of right principles is an infinite process. It is a development to be pursued but never completed. Intellectual integrity, the accurate reflection of highest personal judgment, on the other hand, is within the reach of all. Thus, the best we can do with ourselves is to represent ourselves at our best. To do otherwise is to tell a lie. To tell lies is to destroy such truth as is known. To deny truth is to destroy ourselves.

It would seem to follow, then, that if we could isolate any one or numerous origins of lies we might put the spotlight on the genesis of our troublous times. This is why it seems appropriate to accept Tolstoy's statement as a hypothesis and examine into the idea that lies begin with "decisions of men united in councils as more important and more sacred than reason and conscience." For, certainly, today, much of the decision that guides national and world policy springs from "men united in councils."

In what manner, then, do "the decisions of men united in councils" tend to initiate lies? Experience with these arrangements suggests that there are several ways.

The Spirit of the Mob

The first has to do with a strange and what in most instances must be an unconscious behavior of men in association. Consider the mob. It is a loose-type association. The mob will tar and feather, burn at the stake, string up by the neck, and otherwise murder. But dissect this association, pull it apart, investigate its individual components. Each person, very often, is a God-fearing, home-loving, wouldn't-kill-a-fly type of individual.

What happens, then? What makes persons in a mob behave as they do? What accounts for the distinction between these persons acting as responsible individuals and acting in association?

Perhaps it is this: These persons, when in mob association, and maybe at the instigation of a demented leader, remove the self-disciplines which guide them in individual action; thus the evil that is in each person is released, for there is some evil in all of us. In this situation, no one of the mobsters consciously assumes the *personal* guilt for what is thought to be a collective act but, instead, puts the onus of it on an abstraction which, without persons, is what the mob is.

There may be the appearance of unfairness in relating mob association to association in general. In all but one respect, yes. But in one respect there is a striking similarity.

Persons advocate proposals in association that they would in no circumstance practice in individual action. Honest men, by any of the common standards of honesty, will, in a board or a committee, sponsor, for instance, legal thievery—that is, they will urge the use of the political means to exact the fruits of the labor of others for the purpose of benefiting themselves, their group, or their community.

These leaders, for they have been elected or appointed to a board or a committee, do not think of themselves as having sponsored legal thievery. They think of the board, the committee, the council, or the association as having taken the action.[2] The onus of the act, to their way of thinking, is put on an abstraction which is what a board or an association is without persons.

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Imagine this: Joe Doakes passed away and floated up to the Pearly Gates. He pounded on the Gates and St. Peter appeared.

"Who are you, may I ask?"

"My name is Joe Doakes, sir."

"Where are you from?"

"I am from Updale, U.S.A."

"Why are you here?"

"I plead admittance, Mr. St. Peter."

St. Peter scanned his scroll and said, "Yes, Joe, you are on my list. Sorry I can't let you in. You stole money from others, including widows and orphans."

"Mr. St. Peter, I had the reputation of being an honest man. What do you mean, I stole money from widows and orphans?"

"Joe, you were a member, a financial supporter and once on the Board of Directors of The Updale Do-Good Association. It advocated a municipal golf course in Updale which took money from widows and orphans in order to benefit you and a hundred other golfers."

"Mr. St. Peter, that was The Updale Do-Good Association that took that action, not your humble applicant, Joe Doakes."

St. Peter scanned his scroll again, slowly raised his head, and said somewhat sadly, "Joe, The Updale Do-Good Association is not on my list, nor any foundation, nor any chamber of commerce, nor any trade association, nor any labor union, nor any P.T.A. All I have listed here are persons, *just persons*."

It ought to be obvious that we as individuals stand responsible for our actions regardless of any wishes to the contrary, or irrespective of the devices we try to arrange to avoid personal responsibility. Actions of the group character heretofore referred to are lies for in no sense are they accurate responses to the highest judgments of the individuals concerned.

The Spirit of the Committee

The second way that lies are initiated by "the decisions of men united in councils" inheres in commonly accepted committee practices. For example: A committee of three has been assigned the task of preparing a report on what should be done about rent control. The first member is devoted to the welfare-state idea and believes that rents should forever be controlled by governmental fiat. The second member is a devotee of the voluntary society, free-market economy, and a government of strictly limited powers and, therefore, believes that rent control should be abolished forthwith. The third member believes rent controls to be bad but thinks that the decontrol should be effected gradually, over a period of years.

This not uncommon situation is composed of men honestly holding three irreconcilable beliefs. Yet, a report is expected and under the customary committee theory and practice is usually forthcoming. What to do? Why not hit upon something that is not too disagreeable to any one of the three? For instance, why not bring in a report recommending that landlords be permitted by government to increase rents in an amount not to exceed 15 percent? Agreed!

In this hypothetical but common instance the recommendation is a fabrication, pure and simple. Truth, as understood by any one of the three, has no spokesman. By any reasonable definition a lie has been told.

The Lowest Common Denominator

Another example. Three men having no preconceived ideas are appointed to bring in a report. What will they agree to? Only that which they are willing to say in concert which, logically, can be only the lowest common-denominator opinion of the majority! The lowest common-denominator opinion of two persons cannot be an accurate reflection of the highest judgment of each of the two. The lowest common-denominator opinion of a set of men is at variance with truth as here defined. Again, it is a fabrication. Truth has no spokesman. A lie has been told.

These examples (numberless variations could be cited) suggest only the nature of the lie in embryo. It is interesting to see what becomes of it.

Not all bodies called committees are true committees, a phase of the discussion that will be dealt with later. However, the true committee, the arrangement which calls for

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resolution in accordance with what a majority of the members are willing to say in concert, is but the instigator of fabrications yet more pronounced. The committee, for the most part, presupposes another larger body to which its recommendations are made.

These larger bodies have a vast, almost an all-inclusive, range in present-day American life. The neighborhood development associations; the small town and big city chambers of commerce; the regional and national trade associations; the P.T.A.'s; labor unions organized vertically to encompass crafts and horizontally to embrace industries; farmers' granges and co-ops; medical and other kinds of professional societies; ward, precinct, county, state, and national organizations of political parties; governmental councils from the local police department board to the Congress of the United States; the United Nations; thousands and tens of thousands of them, every citizen embraced by several of them and millions of citizens embraced by scores of them; most of them "resoluting" as groups, deciding as "men united in councils."

These associational arrangements divide quite naturally into two broad classes: (1) those that are of the voluntary type, the kind to which we pay dues if we want to, and (2) those that are a part of government, the kind to which we pay taxes whether we want to or not.

For the purposes of this critique, emphasis will be placed on the voluntary type. In many respects criticisms applying to the former are valid when applied to the latter[3]; nonetheless, there are distinctions between the way one should relate oneself to a voluntary association and the way one, for the sake of self-protection, is almost compelled to relate himself to a coercive agency.

Now, it is not true, nor is it here pretended, that every associational resolution originates in distortions of personal conceptions of what is right. But any one of the millions of citizens who participates in these associations has, by experience, learned how extensive these fabrications are. As a matter of fact, there has developed a rather large acceptance of the notion that wisdom can be derived from the averaging of opinions, providing there are enough of them. The quantitative theory of wisdom, so to speak?

A Lie Compounded

If one will concede that the aforementioned committee characteristics and council behaviors are perversions of truth, it becomes interesting to observe the manner of their extension—to observe how the lie is compounded.

Analyzed, it is something like this: An association takes a stand on a certain issue and claims or implies it speaks for its one million members. It is possible, of course, that each of the one million members agrees with the stand taken by the organization. But, in all probability, this is an untruthful statement, for the following possible reasons:

1. If every member were actually polled on the issue, and the majority vote was accepted as the organization's position, there is no certainty that more than 500,001 persons agreed with the position stated as that of the one million.

2. If not all members were polled, or not all were at the meeting where the voting took place, there is only the certainty that a majority of those voting favored the position of the organization—still claimed to be the belief of one million persons. If the quorum should be 100, there is no certainty that more than 51 persons agreed with that position.

3. It is still more likely that the opinion of the members was not tested at all. The officers, or some committee, or some one person may have determined the stand of the organization. Then there is no certainty that more than one person (or a majority of the committee) favored that position.

4. And, finally, if that person should be dishonest—that is, untrue to that which he personally believed to be right, either by reason of ulterior motives, or by reason of anticipating what the others will like or approve—then, it is pretty certain that the resolution did not even originate in honest opinion.

An example will assist in making the point. The economist of a national association and a friend were breakfasting one morning, just after the end of World War II. Wage and price

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controls were still in effect. The conversation went something as follows:

"I have just written a report on wage and price controls which I think you will like."

"Why do you say you *think* I will like it? Why don't you say you *know* I will like it?"

"Well, I—er—hedged a little on rent controls."

"You don't believe in rent controls. Why did you hedge?"

"Because the report is as strong as I think our Board of Directors will adopt."

"As the economist, isn't it your business to state that which you believe to be right? If the Board Members want to take a wrong action, let them do so and bear the responsibility for it."

Paying for Misrepresentation

Actually, what happened? The Board did adopt that report. It was represented to the Congress as the considered opinion of the constituency of that association. Many of the members believed in the immediate abolishment of rent control. Yet, they were reported as believing otherwise—and paying dues to be thus misrepresented. By supporting this procedure with their membership and their money they were as responsible as though they had gone before the Congress and told the lie themselves.

To remove the twofold dishonesty from such a situation, the spokesman of that association would have to say something like this to the Congress:

"This report was adopted by our Board of Directors, 35 of the 100 being present. The vote was 18 to 12 in favor of the report, 5 not voting. The report itself was prepared by our economist, *but it is not an accurate reflection of his views*."[4]

Such honesty or exactness is more the exception than the rule as everyone who has had experience in associational work can attest. What really happens is a misrepresentation of concurrence, a program of lying about how many of who stands for what. Truth, such as is known, is seldom spoken. It is warped into a misleading distortion. It is obliterated by this process of the majority speaking for the minority, more often by the minority speaking for the majority, sometimes by one dishonest opportunist speaking for thousands. Truth, such as is known—the best judgments of individuals—for the most part, goes unrepresented, unspoken.

This, then, is the stuff out of which much of local, national, and world policy is being woven. Is it any wonder that many citizens are confused?

Three questions are in order, and deserve suggested answers:

1. What is the reason for having all these troubles with truth?
2. What should we do about these associational difficulties?
3. Is there a proper place for associational activity as relating to important issues?

"And now remains
That we find out the cause of this effect;
Or, rather say, the cause of this defect,
For this effect, defective, comes by cause."

Pointing out causes is a hazardous venture for, as one ancient sage put it, "Even from the beginnings of the world descends a chain of causes." Thus, for the purpose of this critique, it would be folly to attempt more than casual reference to some of our own recent experiences.

First, there doesn't appear to be any widespread, lively recognition of the fact that conscience, reason, knowledge, integrity, fidelity, understanding, judgment, and other virtues are the distinctive and exclusive properties of individual persons.

Somehow, there follows from this lack of recognition the notion that wisdom can be derived by pooling the conclusions of a sufficient number of persons, even though no one of them has applied his faculties to the problems in question. With this as a notion the imagination begins to ascribe personal characteristics to a collective—the committee, the group, the association—as though the collective could think, judge, know, or assume responsibility. With this as a notion,

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there is the inclination to substitute the "decisions of men united in councils" for reason and conscience. With this as a notion, the responsibility for personal thought is relieved and, thus relieved, fails to materialize to its fullest.

A Blind Faith

Second, there is an almost blind faith in the efficacy and rightness of majority decision as though the mere preponderance of opinion were the device for determining what is right. This thinking is consistent with and a part of the "might makes right" doctrine. This thinking, no doubt, is an outgrowth of the American political pattern, lacking, it seems, an observance of the essential distinctions between voluntary and coercive agencies. It is necessary that these distinctions be understood unless the whole associational error is to continue. The following is, at least, a suggested explanation:

Government—organized police force—which according to best American theory should have a monopoly of coercive power, must contain a final authority. Such authority was not planned to be in the person of a monarch, in an oligarchy, or even in a set of elected representatives. The ultimate, final authority was designed to derive from and to reside with the people. Erected as safeguards against the despotism that such a democratic arrangement is almost certain to inflict on its members were (1) the Constitution and (2) the legislative, executive, and judicial functions so divided and diffused that each might serve as a check on the others.

When the concession is made that government is necessary to assure justice and maximum freedom, and when the decision is made that the ultimate authority of that government shall rest with the people, it follows that majority vote is not a matter of choice *but a necessity* whenever this ultimate authority expresses itself. No alternative exists with this situation as a premise. To change from majority vote as a manner of expression would involve changing the premise, changing to a situation in which the ultimate authority rests in one person.

For reasons stated and implied throughout this critique the majority-decision system is considered to be most inexpert. However, it proves to be a virtue rather than a fault as applied to the exceedingly dangerous coercive power, *providing the coercive power is limited to its sphere of policing*. This inexpertness in such a circumstance tends to keep the coercive power from becoming too aggressive.

Conceding the limitation of the coercive power, which was implicit in the American design, the really important matters of life, all of the creative aspects, are outside this coercive sphere and are left to the attentions of men in voluntary effort and free association.

The idea of citizens left free to their home life, their business life, their religious life, with the coercive power limited to protecting citizens in these pursuits presents, roughly, the duality of the American pattern. On the one hand is the really important part of life, the creative part. On the other hand is the minor part, the part having to do with constraint. Constraining and creating call for distinctly different arrangements. Constraint can stop the trains but it is not the force we use to build a railroad.

Out of this pattern has developed a high appreciation for our form of government, particularly as we have compared it with the coercive agencies of the Old World. Here is the point: The majority-decision system, an effect rather than a cause of our form of government, has been erroneously credited as responsible for the superiority of our form of government. It has been thought of as its distinctive characteristic. Therefore, the majority-decision system is regarded as the essence of rightness. Without raising questions as to the distinctions between creating and constraining we have taken a coercive-agency device and attempted its application in free association. Something is not quite right. Perhaps this is one of the causes.

Loss of Reason

Third, we have in this country carried the division-of-labor practice to such a high point and with such good effect in standard-of-living benefits that we seem to have forgotten

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that the practice has any limitations. Many of us, in respect to our voluntary associational activities, have tried to delegate moral and personal responsibilities to mere abstractions, which is what associations are, without persons. In view of (1) this being an impossibility, (2) our persistent attempts to do it, nonetheless, and (3) the consequent loss of reason and conscience when personal responsibility is not personally assumed, we have succeeded in manufacturing little more than massive quantities of collective declarations and resolutions. These, lacking in both wit and reason, have the power to inflict damage but are generally useless in conferring understanding. So much for causes.

"What should we do about these associational difficulties?" This writer, to be consistent with his own convictions, finds it necessary to drop into first person, singular, to answer this question.

In brief, I do not know what our attitude should be, but only what mine is. *It is to have no part in any association whatever which takes actions implicating me for which I am not ready and willing to accept personal responsibility.*

Put it this way: If I am opposed, for instance, to spoliation—legal plunder—I am not going to risk being reported in its favor. This is a matter having to do with morals, and moral responsibility is strictly a personal affair. In this, and like areas, I prefer to speak for myself. I do not wish to carry the division-of-labor idea, the delegation of authority, to this untenable extreme.

This determination of mine refers only to voluntary associations and does not include reference to membership in or support of a political party. The latter has to do with my relationship to coercive agencies and these, as I have suggested, are birds of another feather.

One friend who shares these general criticisms objects to the course I have determined on. He objects on the ground that he must remain in associations which persist in misrepresenting him in order to effect his own influence in bettering them. If one accepts this view, how can one keep from "holing up" with any evil to be found, anywhere? If lending one's support to an agency which lies about one's convictions is as evil as lying oneself, and if to stop such evil in others one has to indulge in evil, it seems evident that evil will soon become unanimous. The alternative? Stop doing evil. This at least has the virtue of lessening the evildoers by one.

The question, "Is there a proper place for associational activity as relating to important issues?" is certainly appropriate if the aforementioned criticisms be considered valid.

First, the bulk of activities conducted by many associations is as businesslike, as economical, as appropriate to the division-of-labor process, as is the organization of specialists to bake bread or to make automobiles. It is not this vast number of useful service activities that is in question.

The phase of activities here in dispute has to do with a technic, a method by which reason and conscience—such truths as are possessed—are not only robbed of incentive for improvement but are actually turned into fabrications, and then represented as the convictions of persons who hold no such convictions.

It was noted above that not all bodies called committees are true committees—a true committee being an arrangement by which a number of persons bring forth a report consistent with what the majority is willing to state in concert. The true committee is part and parcel of the majority-decision system.

Intellectual Leveling-Up

The alternative arrangement, on occasion referred to as a committee, may include the same set of men. The distinction is that the responsibility and the authority for a study is vested not in the collective, the group, but in one person, preferably the one most skilled in the subject at issue. The others serve as consultants. The one person exercises his own judgment as to the suggestions to be incorporated or omitted. The report is his and is presented as his, with such acknowledgments of assistance and concurrence as the facts warrant. In short, the responsibility for the study and the authority to conduct it are reposed where responsibility and authority are capable of being exercised—in a person. This arrangement takes full advantage

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Imagine, if you can, Patrick Henry as having said: "I move that this convention go on record as insisting that we prefer death to slavery."

of the skills and specialisms of all parties concerned. The tendency here is toward an intellectual leveling-up, whereas with the true committee the lowest common-denominator opinion results.

On occasion, associations are formed for a particular purpose and supported by those who are like-minded as to that purpose. As long as the associational activities are limited to the stated purpose and as long as the members remain like-minded, the danger of misrepresentation is removed.

It is the multi-purposed association, the one that potentially may take a "position" on a variety of subjects, particularly subjects relating to the rights or the property of others—moral questions—where misrepresentation is not only possible but almost certain.

The remedy here, if a remedy can be put into effect, is for the association to quit taking "positions" except on such rare occasions as unanimous concurrence is manifest, or except as the exact and precise degree and extent of concurrence is represented.

The alternative step to most associational "positions" is for the members to employ the division-of-labor theory by pooling their resources to supply services to the members—as individuals. Provide headquarters and meeting rooms where they may assemble in free association, exchange ideas, take advantage of the availability and knowledge of others, know of each other's experiences. In addition to this, statisticians, research experts, libraries, and a general secretariat and other aids to effective work can be provided. Then, let the individuals speak or write or act as individual persons! Indeed, this is the real, high purpose of voluntary associations.

The practical as well as the ethical advantages of this suggested procedure may not at first be apparent to everyone. Imagine, if you can, Patrick Henry as having said:

"I move that this convention go on record as insisting that we prefer death to slavery."

Now, suppose that the convention had adopted that motion. What would have been its force? Certainly almost nothing as compared with Patrick Henry's ringing words:

"I know not what course others may take; but as for me, give me liberty or give me death!"

No one in this instance concerned himself with what Patrick Henry was trying to do to him or to someone else. One thought only of what Patrick Henry had decided for himself and weighed, more favorably, the merits of emulation. No convention, no association, no "decisions of men united in councils" could have said such a thing in the first place, and second, anything the members might have said in concert could not have equaled this. Third, had the convention been represented in any such sentiments it is likely that misrepresentation would have been involved.

One needs to reflect but a moment on the words of wisdom which have come down to us throughout all history, the words and works that have had the power to live, the words and works around which we have molded much of our lives, and one will recognize that they are the words and works of persons, not collective resolutions, not what men have uttered in concert, not the "decisions of men united in councils."

A Waste of Time

In short, if effectiveness for what's right is the object then the decision-of-men-united-in-council practice could well be abandoned, if for nothing else, on the basis of its impracticality. It is a waste of time in the creative areas, that is, for the advancement of truth. It is a useful and appropriate device only as it

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relates to the coercive, that is to the restrictive, suppressive, destructive functions.

The reasons for the impracticality of this device in the creative areas seem clear. Each of us when seeking perfection, whether of the spirit, of the intellect, or of the body, looks not to our inferiors but to our betters, not to those who self-appoint themselves as our betters, but to those who, in our own humble judgment, are our betters. Experience has shown that such perfection as there is exists in individuals, not in the lowest common-denominator expressions of a collection of individuals. Perfection emerges with the clear expression of personal faiths—the truth as it is known, not with the confusing announcement of verbal amalgams—lies.

" . . . on that day began lies that caused the loss of millions of human beings and which continue their unhappy work to the present day." The evidence, if fully assembled and correctly presented, would, no doubt, convincingly affirm this observation.

How to stop lies? It is simply a matter of personal determination and a resolve to act and speak in strict accordance with one's inner, personal dictate of what is right. And for each of us to see to it that no other man or set of men is given permission to represent us otherwise.

If such truth as we are in possession of were in no manner inhibited, then life on this earth would be at its highest possible best, short of further enlightenment. □

1. *The Law of Love and the Law of Violence* (New York: Rudolph Field), p. 26.

2. It is acknowledged that most of us acting in association do not consciously regard any of our acts as bad. Yet, the fact remains that we persist in doing things in this circumstance that we would not do on our own responsibility. Actually, involved is a double standard of morality. Morality is exclusively a personal quality. Any action not good enough to be regarded as attached to one's person is, *ipso facto*, bad.

3. The common political idea that a member of Congress, for instance, must "compromise," that is, must on some issues vote contrary to his convictions in order to effect a greater good on some subsequent issue, or to keep himself in office that he may insure the public good, leaves shattered and destroyed any moral basis of action. If each member of Congress were to act in strict accordance with his inner dictate of what is right, the final outcome of Congressional action would, of course, be a composite of differing convictions. But the alternative of this is a composite of inaccurate reflections of rightness.

4. It is evident that any such report as this is worthless. Yet, a more pretentious report would be a lie, a thing of positive harm. If a procedure can result only in worthlessness or harm, the procedure itself should be in question.

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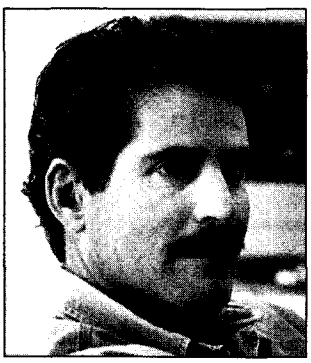

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The Freedom Not to Pay for Other People's Politics

Samuel Gompers, the founder of the modern American labor union movement, once wrote, "there may be here and there a worker who for certain reasons unexplainable to us does not join a union of labor. . . . It is his legal right and no one can or dare question his exercise of that legal right."

Today, union leaders rarely tell the rank and file about Gompers's defense of individual rights. Armed with tens of millions of dollars in forced dues from compulsory union membership, today's unions engage in political activity, social causes, and ideological crusades to which many of the members personally object. That may change, if a 1988 Supreme Court decision is ever enforced.

In 21 "right to work" states, workers are protected from union compulsion by laws that make union membership voluntary. But in the other 29 states, a simple majority vote at a work site is sufficient to dragoon all workers into a union. With this "exclusive right of representation," unions then negotiate security clauses in contracts with employers that give them the power to coerce their "members" to pay dues.

Employers routinely approve these clauses, even though no law mandates them, in exchange for concessions at the bargaining table. A security clause obligates an employer to fire a worker who fails to pay these fees at the union's request. Since this guarantees that the union will get whatever it demands from workers, it is usually in the union's best interest to sacrifice other proposals at the bargaining table to secure this lucrative and self-perpetuating device.

Workers covered by a security clause must pay dues for the union's collective-bargaining activities, but they are not required to financially support the union's political or ideological causes. In fact, workers are actually entitled to a *refund* of their dues used for purposes unrelated to collective bargaining, contract administration, or grievance processing, according to the 1988 U.S. Supreme Court decision in *Communication Workers of America v. Beck.*

In that celebrated case, it was determined that the union had been using as much as 79 percent of Harry Beck's dues for partisan politics—and almost all of it on behalf of one particular political party. In a more recent case from Ferris State University in Michigan, a teachers union was found to have been spending *over 90 percent* of its members' dues money on political and other non-bargaining activities.

Ten years after the landmark decision, *Beck* rights go largely unrealized because workers simply do not know these rights exist and state and federal governments have done almost nothing to enforce them. In April 1996 Luntz Research revealed that 78 percent of 1,000 union members surveyed were unaware that they had a right to a refund of the portion of their dues that went to political activities. Moreover, a whopping 84 percent in the survey said that their union leaders should be

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required to disclose "exactly how they spend" union dues.

Peer pressure and veiled threats from the top discourage the informed few from even attempting to exercise their *Beck* rights. When union members have actually challenged their union leadership to honor the decision—and there have been a courageous few—they get the cold shoulder or worse. Union leaders behave like the monopolists they are—stonewalling, falsifying the numbers, and forcing disgruntled workers to spend large sums of money to litigate the issue. To most workers, that expense is hardly worth the eventual refund.

In a free society, membership in any organization would be a matter of choice and the issue of spending dues money against the wishes of dues payers would be a rare tempest in a very tiny teapot. Compelling someone to join and pay dues to support collective bargaining does obvious violence to that principle, but the Supreme Court's *Beck* ruling was intended to prevent something even worse—forcing a worker to pay for other people's political agendas.

In April 1992, President George Bush issued an executive order requiring all firms doing business with the federal government to inform their workers of their *Beck* rights. Shortly after assuming office in 1993, President Bill Clinton rescinded that order. It remains a travesty of justice in America that in spite of a ruling from the highest court in the land, our so-called public servants with few exceptions cannot bring themselves to enforce every worker's right to abstain from supporting causes and candidates he opposes.

The state of Washington is virtually alone in attempting to enforce *Beck* rights. In 1992, 72 percent of that state's voters approved a ballot initiative requiring teachers unions to secure written permission from each worker before deducting political-action assessments from his paycheck. For state-government workers, the voters approved even stricter language: state-employee unions could not deduct for political contributions under any circumstances; an employee's personal check was required.

What happened after these changes was nothing short of astonishing. The number of teachers contributing to their unions' political-action committees plummeted from over 45,000 to just 8,000. And the number of state workers making such a contribution—over 40,000 before the change—evaporated to a microscopic 82. No wonder unions everywhere are scared stiff that *Beck* rights might become a cause célèbre.

California voters will go to the polls later this year to decide on a *Beck*-inspired referendum. If it passes, unions in that state could no longer collect or use money from employees for political purposes without express permission. Millions of dollars will be spent by both sides over the exercise of a right that ought to be a given in the land of the free and the home of the brave.

The failure to enforce that right mocks justice and offends a most fundamental principle of individual liberty. Freedom lovers everywhere should yearn for the day when American workers are no longer compelled to cough up cash for the pet political projects of union leaders. □

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THE FREEMAN
IDEAS ON LIBERTY

"Let 'Em Skate!": Defeating Local Socialism

by George C. Leef

Ordinarily, township government is pretty dull stuff, which is just the way I like it. There are enough battles to be fought over proposed federal or state power grabs. If the township sticks to issues like public safety, road repairs, and similar functions, I can peacefully coexist with it.

Unfortunately, in the summer of 1997 all of that changed in my township, Meridian Township in the northeastern suburbs of Lansing, Michigan. It changed because a group of skating (mainly hockey) enthusiasts wanted to have the township finance and build an ice arena for them. Special-interest politics had reared its ugly head. The following story may be of interest to those of you who believe in limited government and who have a desire to stop special-interest projects before they take a bite out of your wallets.

Like most northern U.S. cities, Lansing has many people who enjoy ice sports. Some of them thought that the facilities for skating and ice hockey in the area were inadequate. Parents complained of having to get up early and drive their sons as far away as Jackson (about 40 miles) for hockey practices. Even though plans were afoot to construct a large multipurpose sports complex on the west side of Lansing (privately financed), which would include two ice surfaces, and to put a dome over an existing ice rink in Lansing to make it available year round, these people wanted Meridian Township to have "its own" ice arena. They set about to get it in the manner that has now become the norm in America. They turned to government.

With the imprimatur of one member of the township board of trustees, an Ice Arena Task Force was formed, composed almost entirely of hockey enthusiasts. The job of the task force was to "study the need" for an ice arena in Meridian Township. That was like asking a group of hogs to study the need for more food in the trough.

The "study" turned out to be a telephone survey costing some $6,000 that asked a long series of sports and exercise-related questions before finally getting to the clincher: "Would you be in favor of a self-supporting ice arena in Meridian Township?" Naturally, most people said yes. Telephone surveys are notoriously self-selecting (people who weren't interested in having their time taken up with a survey on sports probably hung up immediately) and this question is extremely leading. Nevertheless, the task force concluded and the board concurred that there was a great desire for an ice arena.

But why have this arena financed by government? Why not look for private investors? Another "study" done by the task force provided the answer. The task force surveyed ice arena managers in Michigan, and one question asked: "On a scale of one to five, do you agree or disagree with the statement that pri-

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vate enterprise is unable to provide ice facilities needed by the public." Keep in mind that this is being asked of arena *managers*, not of people who might actually consider making such an investment. Whatever the answers might be, they shed little light on the feasibility of private ice arenas. Nevertheless, the median answer was mild disagreement with the statement. That inconvenient fact did not prevent the task force from "concluding" that the township could not look to private investment. The conclusion was inconsistent with the data, but after all, this is government at work.

The Arena and Its Financing

Having found exactly what the members of the task force wanted to find, they next set about designing their dream. The board approved their request for another $50,000 for further planning. Soon an architectural firm had drawn up plans for a splendid ice arena, complete with two ice surfaces, numerous locker rooms for the anticipated teams, comfortable seating for up to 1,500 spectators, and even press boxes. All of this, including the land-acquisition costs, could be built, the task force said, for just $8 million. The only remaining question was how should the government borrow the money.

Initially, the task force looked into the feasibility of revenue bonds, the principal and interest payments on which would come out of the arena's revenues. The task force found that the township couldn't sell revenue bonds, however. Investors, in other words, were unwilling to finance the project if they bore the risk. Undaunted by this slap in the face by reality, the task force went on to Plan B—limited general-obligation bonds.

Michigan requires that the taxpayers must approve bonds for which they will be obligated. Interest groups that thrive on government-financed projects hate this since the taxpayers often vote no. So, in a thus-far successful attempt to circumvent the state constitution, bond attorneys devised "limited" general-obligation bonds, which become an obligation of the taxpayers only if they can't be paid from revenues. Those bonds, they maintain, do not need to be approved by the voters. Aha! Limited general-obligation bonds it would be!

In July 1997, the Meridian board of trustees voted for the task force's proposal to have the township sell the bonds and build the ice arena. Even though one trustee argued that the plan ought to be put to a public vote, his motion was defeated. Why bother with a vote? The people were overwhelmingly in favor of it. The phone survey said so.

The Opposition

But the law did give opponents one last chance. If enough signatures could be collected from voters (at least 10 percent) within 45 days, the bond proposal would have to be submitted to the people. A small group of citizens, including me, immediately got petitions printed and obtained the necessary signatures. Despite editorials and letters in the local paper telling people not to sign because doing so would delay progress, we managed to turn in signatures from more than 15 percent of the voters on the 45th day. A referendum there would be.

I was chosen to be the communications director for the opponents, so I would get to discuss the issue with the press and prepare the campaign materials. I decided that our best strategy would be to stay with a few arguments based on individual rights and limited government, specifically that it was wrong for the government to get involved in a project that had nothing to do with the proper functions of government; wrong for the government to force people to bear the risk on a facility that most would never use; and wrong for the government to compete with private businesses already providing ice rinks. Some of my allies questioned my reliance on libertarian arguments since many Meridian Township residents are employed by the state government or Michigan State University and the area has a liberal voting tendency. But I did not just want to stop the ice arena; I also wanted to use the dispute to make some important philosophical points.

The campaign to sway opinion ran throughout September and October. We opponents had only a small amount of money to spend,

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so we used it on two mailings to likely voters and relied on as much free media as we could get. As usual in special-interest battles, the proponents were well financed and spent lavishly on a political-consulting firm, a forest of yard signs, professionally prepared mailings featuring endorsements from the big-name coaches at Michigan State, a push-polling operation (phone calls to voters asking their opinions, while plying them with information to push them toward the desired opinion), and even television ads. Meridian Township is only a small fraction of the Lansing TV market, but the supporters had the money and spent it.

The Campaign

The attempt to get people to vote in favor of the bond plan is an object lesson in the ways in which special-interest groups attempt to get something at public expense. They:

• *Misstated the issue.* The pro-arena forces adopted the slogan "Let 'em skate" and used it incessantly in their advertising. But whether people should be *permitted* to skate, as this slogan implies, was not the issue at all. As we pointed out at every opportunity, there were already indoor and outdoor skating rinks in Lansing, with more under construction. People could skate. The real issue was whether all township residents should be forced to bear the risk—since operating losses could lead to tax increases—for a project that would be of no benefit to most of them. But in politics, a cute slogan works much better than serious, honest argumentation.

• *Ignored opposing arguments.* To respond to opposing arguments is to get sucked into playing the game by the wrong set of rules. Serious debate is to be avoided since it is apt to get people thinking about real issues. Therefore, arena proponents did not respond when our side pointed out, among other things, that the bonds would force people who had no interest in skating to bear risk for the project; that the "survey" was bogus; that the township's financial adviser had said the task-force projections on costs and revenues were overly optimistic; that a new private developer had already signed contracts to serve much of the skating demand; and that caving in to this special-interest group would set a bad precedent. We set up a debate and invited a spokesman from the other side to appear, but he refused to do so.

• *Impugned the motives of their opponents.* In politics, having the appearance of pure motives is extremely important. Therefore, if you can tag your opponents with the "nasty people" label, you increase the likelihood of success. The ice arena's backers played this card over and over. Those who were against the arena were said to be "antiprogress," "antifamily," and "greedy." If you didn't want the ice arena, you were against "wholesome recreational opportunities for children."

• *Made indefensible claims.* The arena forces knew that many voters were concerned about the possibility of a tax increase if the arena failed to live up to its rosy projections. In an effort to allay those fears, their communications stated repeatedly, "The arena will be self-supporting." One flyer even claimed that the project was "programmed to cover its costs." Of course, we said that these claims were absurd. You can no more "program" a government investment in a sports facility to cover its costs than a business can "program" any of its investments to cover its costs. But in politics you can say anything to get people to side with you, with no fear of any liability for false or misleading statements.

• *Hid behind platitudes.* American voters have a well-deserved reputation for falling for coercive measures as long as they come coated in platitudes. In this instance, the arena backers said that their project would be "good for the community." It would "bring families together." One letter even said that the arena would help to combat global warming! Just focusing on the first of these, we pointed out that communities are just abstractions without feelings or desires. Things can only be good (or bad) for individuals. Skaters may think that their pet activity creates "a better community," but so do many opera lovers, garden

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enthusiasts, tennis players, and other assorted aficionados. The case for subsidizing skating is no better than the case for subsidizing anything else.

• *Peddled non sequiturs.* A non sequitur is an argument where the conclusion does not follow from the premises. During the arena campaign, backers frequently argued that Meridian Township ought to have "its" ice arena because many other Michigan municipalities do. But just because something has been done elsewhere proves neither that it is right nor that it will succeed.

The Decision

The vote was November 4, 1997. The bond question was the only one on the ballot. After weeks of being bombarded by the campaign I have described, how would the voters decide?

A total of 3,092 votes were cast in favor of the plan, showing that the willingness to use coercion to achieve one's ends is alive and well. However, 5,333 residents voted against it, an ignominious defeat: 63 to 37 percent. Despite their mendacious, costly campaign, the arena proponents were humiliated.

We can only speculate about the reasoning of the "no" voters. Some, at least, understood that the issue was the proper role of government and agreed with me that government should not do for people what they can do for themselves. More, probably, were just averse to any more government debt. Nevertheless, arguments rooted in libertarian principles were the foundation of our attack on the bond plan. They helped to block this proposed expansion of government.

Epilogue: Three months after the defeat of the ice arena, a company in the sports-facilities business announced that it would build an arena in Meridian Township, spending less than the task force plan called for and creating no risk for the taxpayers. Lesson: Don't rush to the government to get what you want. □

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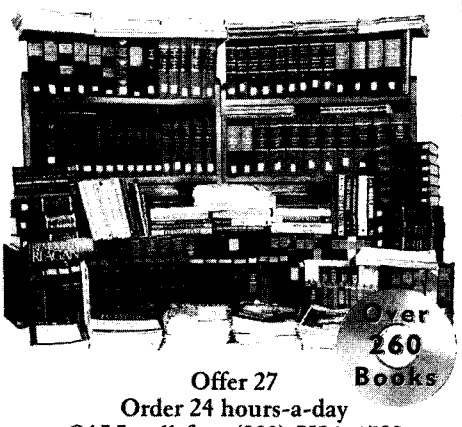

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THE FREEMAN
IDEAS ON LIBERTY

Human Ignorance and Social Engineering

by Wendy McElroy

Throughout most of intellectual history, society has been considered to be the result of someone's design. In his multivolume *Law, Legislation, and Liberty,* the social theorist F. A. Hayek referred to this position as "constructivist rationalism" and argued vigorously against it. In his 1974 Nobel Memorial Lecture, titled "The Pretence of Knowledge," Hayek expressed a different view of how society developed:

> The recognition of the insuperable limits to his knowledge ought indeed to teach the student of society a lesson in humility which should guard him against becoming an accomplice in men's fatal striving to control society—a striving which makes him not only a tyrant over his fellows, but which may well make him the destroyer of a civilization which no brain has designed but which has grown from the free efforts of millions of individuals.

Hayek opposed any attempt to engineer—that is, centrally to plan and to coordinate—the structure of society. He believed that such engineering actually destroyed rather than created society, which was the result of human action but not of human design. Alongside the Austrian economist Ludwig von Mises, Hayek provided what are arguably the best critiques of the "constructivist" theories and policies that have grown in popularity during the twentieth century.

Both Hayek and Mises had witnessed the devastation of classical liberalism by two world wars, but most particularly by World War I. Wartime governments had clamped centralized control over the private sector to ensure a continuing flow of armaments and the other goods deemed necessary for victory. Governments had inflated their money supplies to pay for massive military buildups. And war had strangled the flow of free trade that classical liberals considered to be a prerequisite to peace, prosperity, and freedom. In short, both Hayek and Mises had watched twentieth-century statism replacing nineteenth-century classical liberalism.

If war is the health of the state, as the American individualist Randolph Bourne declared, then Hayek and Mises witnessed the impact of an obvious corollary: namely, that war is the death of individual liberty. And social engineering was a key mechanism through which that freedom was destroyed. Indeed, one of Mises's earliest works, *Nation, State, and Economy* (1919), analyzed the disastrous consequences of the central planning ushered in by World War I.

But Hayek and Mises did not merely oppose social engineering on utilitarian grounds. Independently, they each evolved complex and sophisticated systems of social theory to explain how the institutions of society naturally evolved. They maintained that

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the institutions of a healthy society were the collective and unintended results of human action. Complex social phenomena—such as law, language, and money—were especially the unintended consequences of individual interactions. For example, no committee or central authority decided to invent human speech, let alone to design a language as complicated as English. Acting solely to achieve their own ends, individuals began making sounds to facilitate getting what they wanted from other people. Thus, speech was the result of human action but not of human design, and it naturally evolved into language. The evolution may not have proceeded with scientific efficiency, but it was efficient enough to permit the development of civilization. The efficiency of government programs suffers by comparison.

Yet constructivists argued that an unplanned society is wasteful and chaotic. With sufficient knowledge, they could engineer a perfectly efficient society. There would be no more surpluses or scarcities. Stock markets would not crash, and currencies would not fluctuate. Perhaps society could even be designed so that its members walked in unison toward desirable social goals, just as they had marched together toward victory in wartime.

Hayek bluntly stated that the knowledge constructivists sought was unattainable. It was not possible to plan the dynamics of tomorrow based on how people acted yesterday. People were unpredictable. Human beings were fundamentally different from the physical objects examined by the hard sciences. A scientist could learn everything he needed to know about the movement of an object, and his knowledge would not necessarily change over time. But human beings acted on psychological factors and motivations that were hidden, often even from themselves. Society did not consist of objects that could be neatly categorized and made to obey the laws of science. Society consisted of erratic and unpredictable individuals.

Mises made a similar point in regard to monetary theory. He demonstrated that even the seemingly objective tool of monetary calculation—the sort that people use informally to decide, say, whether to ask for a raise—is ineffective for broader social planning. At best, prices were a historical record; the price of bread is a past price, even if the past was very recent. This information could create anticipation of what the price of bread might be tomorrow, but it could predict nothing. A bread shortage might make the price skyrocket. Moreover, using yesterday to engineer tomorrow went against a fundamental tenet of human action: the principle of inevitable change.

In *Human Action: A Treatise on Economics* (1949), Mises commented, "Human action originates change. As far as there is human action there is no stability, but ceaseless alteration. . . . The prices of the market are historical facts expressive of a state of affairs that prevailed at a definite instant of the irreversible historical process. . . . In the imaginary—and, of course, unrealizable—state of rigidity and stability there are no changes to be measured. In the actual world of permanent change there are no fixed points. . . ."

From *Nation, State, and Economy* through to his magnum opus, *Human Action*, Mises eloquently argued against the possibility of acquiring enough knowledge to engineer society. Equally, in Hayek's work *The Sensory Order: An Inquiry into the Foundations of Theoretical Psychology* (1952, but apparently based on work he did in 1919 and 1920) to his far more popular *The Road to Serfdom* (1944), he integrated such diverse fields as epistemology and economics to form a social theory that denied any validity to central planning.

Throughout the work of these theorists, two closely related concepts emerge again and again: methodological individualism and spontaneous order. These concepts are key to understanding why Hayek and Mises so adamantly rejected social engineering.

Methodological Individualism

In *Human Action*, Mises offered a description of what he called "The Principle of Methodological Individualism": "First we must realize that all actions are performed by individuals. . . . If we scrutinize the meaning

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Mises claimed that collective wholes—such as "the family" or "society"—were nothing more than the sum of the individual members who comprised them.

of the various actions performed by individuals we must necessarily learn everything about the actions of collective wholes. For a social collective has no existence and reality outside of the individual members' actions."

Mises claimed that collective wholes—such as "the family" or "society"—were nothing more than the sum of the individual members who comprised them. Such wholes were abstractions useful for indicating the interaction of people in a specific context. "Family" indicates one set of interactions, "bridge club" another.

In reducing group functioning to its most basic element—the acts of individuals—Mises did not deny the importance of collective wholes. Quite the contrary. Mises explained, "Methodological individualism, far from contesting the significance of such collective wholes, considers it as one of its main tasks to describe and to analyze their becoming and their disappearing, their changing structures, and their operation. And it chooses the only method fitted to solve this problem satisfactorily."

In other words, methodological individualism was a powerful analytical tool that could be used to discover the principles on which a group of people interacted. It was the best method by which to understand society.

Mises's stress upon methodological individualism did not arise in a vacuum but rather in response to the theory of social holism that had become popular in the early twentieth century. Social holists claimed that collective wholes had an existence far greater than the sum of their individual parts. They drew parallels between the fields of biology and sociology. They argued that just as higher level principles of explanation were needed to describe a complex biological organism than were used to explain the molecules that comprise it, so too with human society. New principles and characteristics emerged within a society that were entirely different from those that applied to individuals. In other words, there were rules that applied only to collective wholes and not to individual members. Further, these emergent rules functioned along scientific lines and responded to methods of planning.

The Individual as Abstraction

With the rise of Marxism, those who favored methodological individualism were often accused of "atomism" or reductionism. Marxists went so far as to assert that it was the individual, and not society, that was the true abstraction. In its extreme form, these social holists even denied that the individual existed without society. As Mises observed, "The notion of an individual, say the critics, is an empty abstraction. Real man is necessarily always a member of a social whole."

Karl Marx argued this point by using a sort of Robinson Crusoe example. Marx contended that an individual who grew up in isolation on a desert island would not be a human being. The crux of his argument was that human beings are social organisms—social constructs, if you will—who cannot be lifted from their defining context and remain human beings. The adult Robinson Crusoe was clearly a human being, but his humanity resulted from a prior history of socialization. Language, thought, art—all that made Crusoe human had resulted from his life in community. Reversing Misesian logic, Marx claimed that the collective whole called "society" created its individual members, who could be understood only by examining the rules of that society. Marx went an extra step and tried to extend the principles and methodology of the hard sciences—such as predictability and control—to society.

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Classical liberals countered that a person who had been raised in utter isolation would still be a human being. For example, he would have a scale of preferences and would act to achieve the highest one first. True, without social interaction, major potentialities within the person's humanity would never develop or be expressed. For example, there would be no reason to develop language skills and no possibility of becoming a parent. Were the isolated individual to be rescued and placed within society, however, his unexpressed potentials might well emerge. But whatever characteristics developed would emerge from his own inherent potential as a human being and they would be the result of the individual interactions he experienced. The characteristics would not emerge because a collective whole called "society" defined them into existence.

Classical liberals did not dispute the claim that groups had a cumulative dynamic that was different than the dynamic of man in isolation. After all, only in society did intellectual and economic exchanges arise. But they believed that the differences could be explained by breaking the group dynamic down into the intricate interactions of the individuals who comprised it. For example, everything about a conversation could be broken down into the statements, body language, and other actions of the individuals involved. Nothing about the conversation required further principles of explanation.

This methodological approach worked in analyzing even extremely complex collective wholes such as "the state." Everything the state did or was could be reduced to individual actions. As Mises explained, "The hangman, not the state, executes a criminal. It is the meaning of those concerned that discerns in the hangman's action an action of the state." Individuals who look at the hangman see the state in action only because an abstraction known as "the state" provides a context for his action. Equally, people never truly see or hear a group conversation. All they see or hear are individuals speaking, and we label the sum of their exchange a "group conversation."

Methodological individualism had profound implications for social-engineering theory. If collective wholes were a "mental process" within individuals rather than concrete entities with independent existence, then it made no sense to claim there were unique rules and characteristics that applied to collectives and not to individuals. Methodological individualism removed the collective wholes from an objective realm ruled by scientific principles and returned it to the subjective realm of human judgment and preference. Instead of being able to design social institutions, such as banks, to run along scientific principles, social engineers were reduced to regulating individuals. They were engaged in planning how human beings would express their preferences in the future—a knowledge that individuals themselves rarely possessed.

And yet, a question remains. Without planning, how can society improve? Part of the answer is to be found in the second concept running throughout the work of Hayek and Mises.

Spontaneous Order

During the eighteenth century, theorists like Adam Smith began to examine the impact that the unintended consequences of human action had upon society. These were the collective consequences that accrued as a result of people pursuing their own individual interests. For example, if twenty people walked the shortest distance across a field, a crude path through the field would be established. But forging the path would be an unintended consequence of each person's conscious goal—to reach the other side quickly.

Smith came to believe that society and its institutions could be best understood by reference to such unintended consequences. Consider the price of yesterday's bread. No one legislated what you were willing to pay for bread yesterday. That price resulted from such unpredictable factors as how highly you prized bread twenty-four hours ago. The social institution of price, therefore, had been established spontaneously. It was also self-correcting; that is, the price spontaneously and rapidly fluctuated to reflect changing factors, such as the availability of bread. And because such changes were unpredictable,

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only a spontaneous response—not a preplanned one—could adequately respond.

No contemporary writer has explored the idea of spontaneous and self-correcting social institutions in greater depth than Hayek. In his essay "Principles of a Liberal Social Order," Hayek tackled an objection he often encountered. He wrote, "Much of the opposition to a system of freedom under general laws arises from the inability to conceive of an effective co-ordination of human activities without deliberate organization by a commanding intelligence" (*Studies in Philosophy, Politics and Society*, 1960).

For social holists, "order" and "efficiency" were concepts that seemed to be wedded together. Mises and Hayek agreed, but they used a different definition of "order." For social holists, the word seemed to conjure up quasi-military visions of society marching shoulder to shoulder toward a common goal. It was embodied in five-year plans that reduced the functioning of society to mathematical equations. By contrast, the order espoused by Mises and Hayek was a spontaneous one in which individuals pursued their own diverse interests without coordination by a central authority.

What does such an order look like? A classic example is the New York Stock Exchange, which was created as a location at which stocks could be bought and sold Monday to Friday from 9 a.m. to 4 p.m. No overriding authority set prices, volume limits, etc. These were established by pockets of people who pursued their own preferences in a manner resembling chaos. In yelling out on the floor that he was willing to buy ABC stock at X price, a trader intended to pursue nothing more than the preferences of his client. But an unintended consequence of his action was the establishment of an overall price for ABC stock.

Spontaneous order can resemble chaos. In Hayek's words, it is the sort of order "whose justification in the particular instant may not be recognizable, and which will . . . often appear unintelligible and irrational." ("Individualism True and False" in *Individualism and Economic Order*, 1948) Ironically, this resemblance to chaos may indicate an aspect of why spontaneous order is efficient. After all, the shifting circumstances to which this sort of order responds have no logical or predictable order. Just as the trading floor of a stock exchange cannot be run according to Miss Manners' rules of etiquette, so too does a dynamic society require institutions with fluidity.

Indeed, the main advantage of a decentralized system of decision-making may well be its ability to adjust constantly and quickly to shifting circumstances. Where social engineering demands a stable future and a godlike knowledge of the present, spontaneous order recognizes and embodies the inevitability of change and the inadequacy of human knowledge.

An individual knows as much as it is possible to know about his own preferences and future acts. The further you move away from the individual, the less reliable the data become—and the less perfect the consequences of decision-making.

Diverging from a Common Point

There is a sense in which both Hayek and Mises based their arguments for individual liberty on human ignorance. In *The Constitution of Liberty* (1960), Hayek acknowledges that the need for freedom "rests chiefly on the recognition of the inevitable ignorance of all of us concerning a great many of the factors on which the achievement of our ends and welfare depends." Ironically, constructivists make much the same argument for their position: human beings are not naturally perfect, therefore society must be engineered and designed. From a point of common agreement—namely, the inadequacy of human knowledge—the two sides reach diametrically opposed conclusions. □

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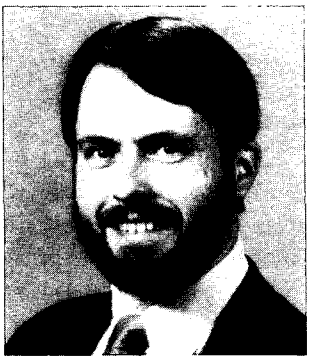

Deficits Are Good

President Bill Clinton's big-spending, high-taxing budget proves what many of us have long known: deficits are good. Years of unending red ink helped check the free-spending tendencies of politicians from left to right. Unfortunately, the mirage of future surpluses has now opened wide the budget floodgates.

For instance, President Clinton wants to create new childcare subsidies, launch a big research program on the supposed threat of global warming, spend more on computers for the abusive IRS, toss additional foreign aid into Africa's chaotic money pit, create new federal housing initiatives to supplement failed old ones, throw more cash at artistic elites through the National Endowment for the Arts, and spend billions of dollars to reduce class size in local schools. Uncle Sam is to be simultaneously Santa Claus and national nanny, wending his way across the nation spreading cash and regulations far and wide.

At the same time the President tells us there is no money for tax cuts for those who earn the money he plans on spending. Instead, we should husband any surplus to "save" Social Security, he explains—while developing a new program for every interest group with a letterhead and at least two members. Those paying the bills can just shut up and pay more.

The subterfuge of claiming to maintain fiscal discipline even while proposing a $150 billion flood of spending increases and tax hikes wouldn't matter so much if there was real opposition in the capital. True, House Majority Leader Dick Armey opines that "We can't go back to the days of skyrocketing government spending" which "the President has proposed." However, most Republicans as well as Democrats give only lip service to the notion of limited government.

In his response to the President's State of the Union speech, Senate Majority Leader Trent Lott decried the high tax burden borne by Americans and denounced government waste, such as the existence of "more than 750 education programs, in 39 different bureaucracies." However, the GOP has controlled Congress for three years. Why are there still "more than 750 education programs, in 39 different bureaucracies"?

The same disconnect between rhetoric and reality was evident when House Speaker Newt Gingrich denounced the President's plan for "higher taxes, more spending, and a larger, less accountable government." What would the Speaker do differently? He recently gave a major speech in which he decried government bureaucracy, even after his party last year made the tax law more complicated. He cited problems in funding medical research, even though Congress has done little to curb the Food and Drug Administration's deadly overregulation. He demanded that "we," whoever that is, replace local administrators in urban schools that don't work, rather than suggest that government butt out and let parents choose where to send

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their kids to school. Social Security is a decade away from insolvency, but Speaker Gingrich said there was "no crisis" and called for . . . creation of a commission to study the issue. He ended with a rousing call to reduce the burden of government, without suggesting elimination of a single program.

Indeed, GOP leaders privately debated dropping the budget caps imposed only last summer. They backed away only under pressure from a caucus with a few members who are still capable of outrage. But the budget process is not yet over and the advocates of more spending in both parties continue to lobby hard.

The problem is that most everything in Washington is based on partisanship, not principle. The President's proposals are wrong not because he likes wasteful bureaucracy—after all, his administration has been busy attempting to "reinvent" government. His initiatives are wrong because they aren't appropriate for government.

Consider child care. More efficient government-provided day care is not better day care. It is merely less wasteful bad day care. The President wants Uncle Sam to throw cash at families in which the parents work outside of the home. So far the GOP response has been to propose a tax credit that would help stay-at-home moms as well.

Obviously government should not discriminate against families in which one parent stays home. But why not keep the government out of child care entirely?

Someone in Washington needs to offer a truly radical alternative: that parents be responsible for their own children's care. Having kids is obviously a burden, but it is freely undertaken. People who choose to have children should also be willing to pay the cost. When difficulties arise, help should come first from family and second from private charity.

Combined with that should be real, across-the-board tax relief that would reduce the pressure on both parents to work. Then families could choose among career options without government interference. Big government that relies on tax incentives to push people to act as it wishes is barely less intrusive than big government that relies on regulations to force people to act as it wishes.

Similar is the question of education. The GOP should thank the President for his concern over class size and suggest that he run for the D.C. school board. There is no obviously correct class size; there certainly is no reason for the national government to decide the matter. There are, in fact, few issues that are more appropriately a private, family concern.

Indeed, the real problem with education is that parents have little influence in a political process dominated by administrators and unions. Instead of letting the Department of Education hand cash to local bureaucracies, Congress should leave the money with parents so they can take their kids out of failing schools. That is the only effective way to hold schools accountable.

Then there's the question of "saving" Social Security. Refusing to give tax cuts to people who are losing a larger share of their income to Uncle Sam than at anytime since World War II is a curious way to preserve a system that has been steadily increasing its tax take for years. Even if the administration really wanted to "save" the extra money, instead of spending it on a host of new government programs, as actually proposed by the President, pouring it down the Social Security rathole would merely postpone the system's day of reckoning.

But creating yet another commission is no less stupid an idea. The problem with Social Security is obvious to all: it is a pay-as-you-go system that can survive only if it is transformed into a private insurance system. If money is "saved" towards this end, it should be immediately returned to taxpayers so they can independently prepare for their own retirement or spend it on whatever else they would like.

Despite the supposed Republican Revolution, nothing has really changed in Washington. There were two parties of government before the 1994 election, and there are still two parties of government. That's become particularly evident as the federal budget seems to be moving to surplus. But there's still hope. It's true that no one is willing to stand up for principle. That almost certainly guarantees the return of federal deficits. And deficits may be the only discipline that works in Washington. □

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THE FREEMAN
IDEAS ON LIBERTY

Unrestrained Appetites, Unlimited Government

by Jeffrey R. Snyder

The federal government was supposed to be limited to a few defined powers. The Tenth Amendment to the Constitution—"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people"—confirms it.

The federal government, of course, does not at present respect its constitutional limits. The chief culprit, in this regard, is the massive social legislation and regulatory apparatus enacted under Congress's constitutional authority "to regulate Commerce . . . among the several states" (Article 1, Section 8, Clause 3).

That clause, as interpreted by the Supreme Court, has been the source of constitutional authority for the great expansion of federal control over health, morals, education, crime, labor, environmental conditions, and retirement and unemployment insurance programs. For example, provisions of the Civil Rights Act of 1964 outlawing racial discrimination by private individuals were upheld as a valid exercise of Congress's power under the interstate commerce clause. In *Katzenbach v. McClung* (1964), the Court held that racial discrimination, in the form of refusal to serve blacks at privately owned restaurants, imposed burdens on interstate commerce that Congress could seek to eliminate.

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The Court took this tack because the Constitution does not grant Congress a general police power to legislate in the realm of public morals. That is, Congress has no authority to pass such a law simply on the basis that racial discrimination is a moral abomination, or even on grounds that the institutionalized treatment of a racial class as subhuman is apt to result in social upheaval, riot, or other breaches of the public peace. Yet let it be found, or reasonably suspected, that this discrimination impedes commerce, why then (but only then!) Congress may act. Apparently, the Court would have us believe that the Founders granted the federal government authority to enact all manner of social legislation—provided only that it is good for business.

An analysis this cynical ought to suggest that the Court's "interpretation" of the commerce clause is an expedient fabrication and that the clause was never meant to serve as backdoor authority for social legislation. No such luck.

The New Deal

The commerce clause became the carte blanche for social legislation through a series of cases upholding New Deal legislation in the 1930s and 1940s. In those cases the Supreme Court interpreted the clause as permitting Congress not just to regulate commerce (actual interstate trade in goods and services), but also to regulate anything that

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had a "substantial effect" on commerce. The watershed case which held that Congress could regulate purely private, individual, *and noncommercial* conduct was *Wickard v. Filburn* (1942).

In its simplest terms, *Wickard* held that Congress had authority under the interstate commerce clause to prohibit Filburn, the owner of a small farm, from growing, storing, and consuming his very own wheat on his very own property. For this reason, it is often selected by libertarians (and occasionally conservatives) as a patent illustration not only of the Supreme Court's egregious failure to uphold the Constitution, but also of the now nearly unlimited scope of congressional power.

Yet a close reading of the case redirects attention away from the Supreme Court as the villain responsible for the loss of limited government, and reveals more precisely the reason for that loss. More troubling still, a close analysis of *Wickard* indicates why term limits, balanced budgets, prohibitions on unfunded mandates, or similar institutional devices will not re-establish limited government, and points to the daunting nature and magnitude of the reform necessary to limit government power.

The Political Perils of Growing Wheat

Roscoe C. Filburn was a farmer in Ohio who maintained a small herd of dairy cattle and a flock of chickens, and sold milk, poultry, and eggs. He also grew a small acreage of winter wheat each year, sold a portion of the crop, used part to feed his poultry and livestock, consumed a small amount at home, and kept the remainder as seed for next year's crop.

Under the Agricultural Adjustment Act of 1938, the secretary of agriculture established a quota for wheat planted by Filburn in the fall of 1940 of 11.1 acres and a normal yield of 20.1 bushels an acre. Filburn sowed 23 acres, harvesting 239 bushels in excess of his allowance. Under the act, this excess was subject to a penalty of 49 cents a bushel ($117.11 in all). The penalty could be avoided only by storing the excess wheat as required by regulations promulgated by the secretary or delivering the wheat to the secretary for storage.

Filburn neither stored nor delivered his wheat. Instead, he sued to prevent the imposition of the penalty by seeking a declaration that Congress lacked the authority to restrict his right to grow and consume, on his own property, as much wheat as he saw fit. He argued specifically that regulation of his wheat production exceeded the authority of Congress to regulate interstate commerce because the activity was not commerce. He further argued that his activities were local and not interstate in character, and that those activities had at most only an indirect effect on interstate commerce. He relied on prior cases that had held that such activities as production (which would encompass farming), manufacturing, and mining, first, were not commerce, and, second, were strictly local (or intrastate) activities, and thus not subject to regulation by Congress under the interstate commerce clause.

The government argued that the act regulated only marketing of wheat, a commercial activity, and alternatively, that if the act did go beyond the regulation of marketing, it was sustainable as a "necessary and proper" implementation of Congress's power to regulate interstate commerce.[1]

The Supreme Court first noted that its recent decision in *United States v. Darby* (1941), holding that Congress had the power under the commerce clause to regulate the production of goods *intended* for commerce, did not dispose of Filburn's claim, because here the Agricultural Adjustment Act "extends federal regulation to production not intended in any part for commerce but wholly for consumption on the farm." The Court then set about putting questions of this sort to rest once and for all.

Reviewing its major decisions under the commerce clause, the Court concluded that the scope of power granted under that clause should not be determined by a mechanical application of legal formulas: whether the activities were entirely intrastate or local; whether they constituted production, consumption, marketing, manufacturing, or mining; or whether those activities had a direct or indirect effect on interstate commerce.

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Instead, the Court concluded, Congress may regulate any local, noncommercial activity "if it exerts a substantial economic effect on interstate commerce." Henceforth, the reach of Congress's power under the commerce clause was to be determined solely by "an economic measure," and not at all by the *nature* of the activity being regulated.

The purpose of the regulation of wheat under the Agricultural Adjustment Act was, the Court noted, to keep the price high for the benefit of wheat farmers. America's farmers produced more wheat than Americans consumed and were unable to export all the excess at favorable prices. Because of the glut on the world market, the world price was approximately 40 cents a bushel.

The act increased the price in America by limiting its domestic supply through the imposition of production quotas. (Presumably, import of cheaper foreign wheat was prohibited or made uneconomical through high tariffs.) The law worked: in 1941, the court noted, farmers who "cooperated" with the program received an average price of $1.16 per bushel—almost three times the world market price.

Yet that goal would have been undermined, if not undone, without regulating the amount of consumption of home-grown wheat. Farm consumption of home-grown wheat amounted to more than 20 percent of average production. Were such a large portion of production and consumption left uncontrolled, the Court noted, oversupply and a resulting decline in price could not be prevented. Because the isolated personal activities of farmers like Filburn could, in the aggregate, have a substantial effect on trade in wheat at increased prices, the Court held, regulation of the amount of wheat a farmer could grow for consumption on the farm was within the power of Congress under the commerce clause.

As a result of the decision in *Wickard,* the commerce clause became the escape hatch through which Congress could enact social legislation. Although previous generations had understood that the Constitution reserved the police power to the states, the commerce clause became the loophole that, for all intents and purposes, eviscerated and made a mockery of the Tenth Amendment and the doctrine of enumerated powers.

The Court had swept aside substantially all jurisdictional limits on federal legislative authority and created the constitutional authorization for federal regulation of nearly all human activity. Henceforth, the only remaining significant limitations on the power of Congress were the restrictions contained in the rest of the Bill of Rights.

Democracy, or the Personal Becomes the Political

The Agricultural Adjustment Act had provided that whenever it appeared that the nation's wheat supply would exceed normal requirements for domestic consumption and export by 35 percent, the secretary would proclaim a compulsory marketing quota for the forthcoming year. But that quota would become law only if approved in a national referendum by a supermajority of at least 66.7 percent of the very farmers who would be subject to the law. (Note that if any other group of businesses agreed on limiting services or products in order to increase prices, the activity would be a violation of the Sherman Anti-Trust Act.)

Lured by the promise of obtaining an artificially high price for their wheat through legal restrictions on production, Filburn's fellow wheat farmers approved the secretary's quotas by 81 to 19 percent. It is unclear whether Filburn himself voted for these restrictions. In any event, it was irrelevant, for he became bound by the "will of the majority," regardless of what that majority knew or understood, and regardless of how ill-considered or unprincipled its actions were.

The quotas on wheat production that Filburn contested, then, were not mandated by a socialist Washington bureaucracy eager to bestow the benefits of a centrally planned economy on the nation's farmers, treading upon the hallowed freedom and independence of those "sturdy yeomen" whom Jefferson praised and idealized. Far from it: the nation's farmers eagerly approved the restrictions, happily trading their freedom and indepen-

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dence for the government's promise of a few dollars more.

These yeomen were stalwart in one sense, however. They did not let the fact that the government's largesse would come at the expense of suffering consumers stop them from doing what had to be done.

That the farmers themselves voted for the quotas underscores perhaps the most important consequence of the Court's decision in *Wickard*. When it swept aside the limits that formerly prevented Congress from passing such laws—regardless of how many people wanted them—nearly all Filburn's private conduct became subject to simple democratic control. Henceforth, not only Filburn's economic activity, but *any* private conduct that might, when considered together with all other similar conduct, have a "substantial effect" on interstate commerce would be subject to the will of the majority. It mattered not how trivial the activity was in isolation, unless the law was prohibited by one of the remaining provisions of the Bill of Rights.

Last Recourse

Filburn made two final arguments against the quotas, both predicated on a violation of his Fifth Amendment right to due process. The first related to the procedure by which the quotas had been approved. Before the referendum, Secretary of Agriculture Claude R. Wickard made a radio address urging the wheat farmers to approve the quotas. He did not mention, however, that legislation awaiting the President's signature would increase the penalty for excess wheat from 15 cents to 49 cents a bushel.

Filburn argued that the secretary's failure to mention so material a piece of information invalidated the referendum. This is a fascinating argument, for it suggests that the farmers voted for the law only because they were planning *not* to obey it. It implies that each farmer believed he would realize the benefit, higher prices, of his fellow farmers' compliance while profiting by growing extra wheat. At 15 cents a bushel, the penalty was still over 60 percent below the world price of 40 cents. Farmers could grow excess wheat, pay the penalty, and still sell it at a small profit. Filburn's argument tacitly suggests that the farmers only approved the restrictions because they thought they could trump the system. Had each farmer known that the penalty would be so high that he would really have to adhere to the quota, Filburn's argument suggests, few farmers would have voted for it. The Court held that the defects in the secretary's speech were not a basis for invalidating the referendum.

Filburn's final argument was that the quotas deprived him of his property (his own wheat) without due process of law in violation of the Fifth Amendment. The Court quickly disposed of that argument: the law did not deprive Filburn of any property. Rather, it transferred additional property to him, in the form of increased prices that he would not otherwise have realized. (Obviously, the people deprived of property, i.e., money, were the nonfarming consumers. But of course that was *with* due process, for Congress had voted for and the President had signed the bill.) Filburn was in no position to complain about a law that conferred a benefit upon him. The Court said:

> It is agreed that as the result of the wheat programs [Filburn] is able to market his wheat at a price "far above any world price based on the natural reaction of supply and demand." We can hardly find a denial of due process in these circumstances, particularly since it is even doubtful that [Filburn's] burdens under the program outweigh his benefits. *It is hardly lack of due process for the Government to regulate that which it subsidizes.* That [Filburn] is the worse off for the aggregate of this legislation does not appear; it only appears that if he could get all that the Government gives and do nothing that the Government asks, he would be better off than this law allows. To deny him this is not to deny him due process of law. (Emphasis added.)

No Subsidy Without Regulation

This is one of the more neglected lessons of *Wickard*. Yet on this point the Court was

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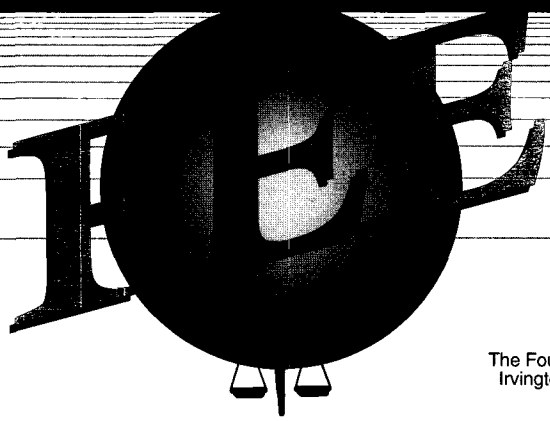

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May 1998

Cursed by Economic Knowledge and Ignorance

Economic understanding is a curse. Americans are fed a steady diet of idiotic commentary and specious "analyses"—most of which flow smoothly down the gullets of unsuspecting nightly-news viewers, newspaper readers, and National Public Radio devotees. But for those of us vexed with some comprehension of supply and demand, comparative advantage, the role of prices, the nature of money, and other economic insights, most of what is uttered or written by the news media on economic topics is so ignorant that it hurts to hear it.

This pain is inescapable. Save for those glorious days in the Fall of 1989 when the headlines reported the draining of one communist cesspool after another, I have never as an adult read a newspaper or watched television news without wanting to throw a wrench at some writer or reporter. (Of course, in practice I throw only words.)

News-media discussions of international trade unleash the most wrench-throwing urges.

First and foremost, of course, critics wrongly allege that imports reduce domestic employment. It's true that cars imported into the United States might reduce the number of jobs in the American auto industry. But employment in other U.S. industries rises because foreign auto producers use the dollars they earn to purchase American goods, services, or assets. Contrary to the suggestion underlying too many newscasts, foreigners don't sell their cars in the United States because they are abnormally fond of thumb-sized, green-tinted portraits of dead American statesmen. Foreigners, no less than Americans, want to spend the dollars they earn.

If Congress were to prevent Americans from buying foreign cars, employment prospects for U.S. auto workers would improve. But those foreigners who would have received dollars in exchange for automobiles they sell in America no longer receive these dollars. Consequently, foreigners purchase fewer American products and services. Workers in other U.S. industries suffer, as do American consumers.

Protectionism never increases domestic employment; it merely shifts it around.

I proudly report that over the years I've taught international trade to hundreds of students and have knowingly failed in only one case to persuade a student of this fundamental lesson. (For the record, this lone student was a member of the Italian Communist Party.)

My students' first reaction to the realization that protectionism never increases domestic employment is this: "While it would be a mistake to protect domestic workers from foreign competition, the government should provide job re-training

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and unemployment benefits to help workers who lose their jobs to imports."

Such cruelty appalls me. Forget that government handouts weaken the incentive for unemployed workers to find new employment. More relevant is the fact that such retraining programs and handouts must be paid for out of taxes. Every dollar taxed away to help so-called "displaced workers" is a dollar taken from the private economy where it would otherwise be spent on goods, services, or investments. Raising taxes to help workers displaced by imports displaces *other* workers. It's cruel—or at least grossly arbitrary—for government to assist Mr. Jones by plaguing Mr. Smith.

Another frequent misunderstanding has to do with trade deficits. Whenever the U.S. trade deficit increases, Dan Rather and his brethren intone seriously that such increases are ominous. Such reporting suggests that Dan, Tom, and Peter are each as ignorant of economics as King Tut was of quantum physics.

Here's a quick lesson in international economic accounting. *Every nation's foreign trade is always balanced.* That's the way the accounting system is designed. If one part of a nation's trade account is in deficit by $1.96 billion, other parts must be in surplus by $1.96 billion.

When newscasters and other professional chatterers report on America's "trade deficit," they are necessarily telling us about only one part of the balance sheet. Sometimes they have in mind the merchandise-trade account, a meaningless report of the dollar value of physical goods that cross our borders in commerce during (say) the month. Worrying about a merchandise-trade deficit makes as much sense as worrying about a unicorn invasion.

If foreigners buy American lumber or laser printers, these purchases deflate America's merchandise-trade deficit. But if foreigners switch from buying American goods to buying vacations at Disney-World or Merrill Lynch financial services, these purchases inflate our merchandise-trade deficit. There's no fundamental economic difference between purchases of tangible goods and purchases of services. And yet, one kind of purchase leads to merchandise-trade deficits, while the other kind doesn't.

A more useful concept is the current account. Unlike the merchandise-trade account emphasized by the news media, the current account includes trade in services in addition to trade in goods. The current account also reckons investment income earned abroad as well as international transfers. It's quite possible for a country simultaneously to run a merchandise-trade deficit and a current-account surplus—although you'll never learn this fact from a television reporter.

Even a current-account deficit, however, is no cause for concern. One helpful way to relieve your fears of a current-account deficit is to know that there's something called a capital account that precisely balances the current account. So if the current account shows a $2.9 million deficit, the capital account shows a $2.9 million surplus.

Suppose that in 1998 we import $2.9 million more goods and services than we export. Disregarding investment income and transfers, America will then run a $2.9 million deficit in its current account for 1998. But foreigners didn't provide us with $2.9 million of goods and services for nothing. Foreigners must now be holding $2.9 million more in U.S. cash or dollar-denominated assets.

This deficit both signals and promotes economic health. Foreigners investing their dollars in America, rather than cashing their dollars out immediately for goods or services, indicate that the U.S. economy enjoys solid long-run prospects. (The story is more complicated when the current-account deficit is caused by heavy government borrowing at home. But even here the problem is government debt financing, not the current-account deficit.) Moreover, these investments put downward pressure on interest rates, easing U.S. firms' access to capital. The result is greater productivity and higher wages. And yet reporters and politicians, in their ignorance, invariably regard current-account deficits as omens of Armageddon.

Despite the news media's juvenile grasp of economics, I watch the evening news and read the newspapers regularly. I do so not for enjoyment, but to keep current on the state of economic ignorance—which, alas, is a far worse curse than economic understanding and illustrates the task confronting FEE and other economic educators.

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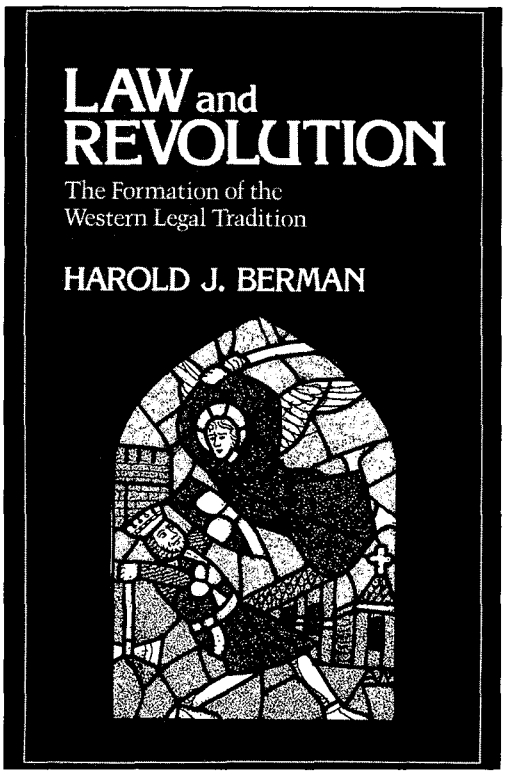

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absolutely correct: "It is hardly lack of due process for the Government to regulate that which it subsidizes." The federal government cannot give you what you want (high wheat prices) unless it regulates you (controls the amount of wheat you can grow, even for personal use), and if it is conferring a benefit on you, you have no basis for complaining of the regulation. Be careful what you seek to enact into law.

You cannot both remain free and expect the government to give you what you want; for it is only by controlling you that the government can insure that you will get what you want. There is no subsidy without regulation; the price of legislated benefits is personal freedom.

It was a trade that the farmers in *Wickard* were apparently eager to make, evidently confident that the lost freedom was but a bauble far and away surpassed by the gains to be realized from a legally restricted market for their goods. As Filburn's "but we didn't know . . ." due-process argument indicates, however, it is a fine question how much that desire for legislated benefits hangs on the perception that the restrictions are at someone else's expense.

The Source of Unlimited Government

It is unbridled desire to coerce others into serving their ends that causes grown men to rationalize the distortion of the words in founding documents (and lesser laws) and that eventually destroys all institutional barriers limiting government power. If the barriers erected by the Constitution ultimately proved powerless to keep this will to coerce within limits, there is no reason to believe that any other parchment barriers, such as term limits, supermajority requirements for tax increases, prohibitions on unfunded mandates, or the rest of the Bill of Rights, will have any greater capacity to contain that force.

Fundamentally, then, the problem of limiting government is not merely a question of institutional devices designed to prevent the creation or excesses of a ruling class, or the co-opting of law by "special interests." The problem is not just certain people or certain groups, and not just a question of balancing one group against another, or of increasing "representation" to magnify the number of voices vying for the prize that participation in a majority confers.

No, the problem is that *each* stands ready to conscript his fellow citizens into his service, that *each* denies equal liberty to all others and will use force to achieve his ends. The problem is the limits of man's—each man's—capacity for acting morally.

Justice for All

While it is possible to criticize the Supreme Court's decision in *Wickard* for failing to uphold the Constitution, there is no doubt that the decision was just. The Court refused to permit the farmers to escape from the consequences of their own actions.

But it can also be said that *Wickard* worked justice on a national scale, for the rest of us. With the full power of the federal government at last able to reach virtually all individual conduct, we were free to form shifting, ad hoc majorities to impose all manner of national social and economic restrictions on one another, to seek and compel the subsidization of one another's activities, to coerce participation in schemes like Social Security, and to pursue cultural hegemony through coerced conformity to "lifestyle" mores (such as bans on smoking). Like the nation's farmers, we were now free to seek legislated benefits, both material and psychic, confident that the laws we desired would be at someone else's expense.

Little noted at the time, however, was the fact that if we were free to vie endlessly with one another to become legally protected predators, we would also be bound to labor perpetually to avoid becoming legal prey. The decision in *Wickard* wrought a terrible and lasting justice: by giving us what we wanted, the Court insured that we would all get exactly what we deserved. □

1. Article 1, section 8, clause 18 of the Constitution confers upon Congress the authority "To make all laws which shall be necessary and proper for carrying into Execution the foregoing Powers," which include the power to regulate interstate commerce.

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THE FREEMAN
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We Can Do Better than Government Inspection of Meat

by E.C. Pasour, Jr.

Last year's news reports of tainted beef focused public attention on the safety of the meat supply. In August 1997, Secretary of Agriculture Dan Glickman forced Hudson Foods to recall 25 million pounds of hamburger meat produced at the firm's state-of-the-art plant in Nebraska. The nation's largest beef recall occurred after several Colorado consumers became sick from hamburgers linked to E. coli contamination.

Examples of illness rooted in unsafe meat are not isolated incidents. Bad or undercooked meat causes an estimated 4,000 deaths and 5 million illnesses annually, according to the federal government's Centers for Disease Control.[1] Moreover, a single incident of contaminated meat has the potential to affect large numbers of people. In 1993, five hundred people became ill and four children died in the Pacific northwest as a result of eating tainted hamburgers.

Illness and death caused by bad meat (whether tainted or undercooked) inevitably evoke calls for more government regulation. It is ironic that increased government intervention is viewed as an antidote to tainted meat, despite the federal government's long-standing responsibility for meat inspection in the United States. Indeed, the Hudson Foods incident occurred only a year after President Clinton announced the most sweeping changes in the government's meat-inspection system. Moreover, a federal inspector was based at the Hudson Foods plant to check the plant's procedures daily.

Chronic problems related to meat inspection and meat safety warrant increased scrutiny of the most appropriate method of inspecting meat. During recent decades, successful deregulation initiatives occurred in a number of areas including banking and transportation. This shows that market forces may provide an improvement over government regulation of economic activity, even when regulations are long-standing and widely accepted.

Is Meat Inspection Different?

Skeptics, including even many market proponents, might say that the conventional analysis doesn't hold for government regulations protecting health—where slip-ups can be fatal. Problems of "government failure," however, may be worse than any market imperfections that government regulation is instituted to remedy.[2] Thus, government failure would have even graver implications for health issues.

Is it possible that the free market could substitute for, and even improve on, the current system of federal meat inspection? The following analysis demonstrates that the problems in government meat inspection are similar to those that plague all other government regulation of economic activity. There is no

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way for government regulators to obtain the information and realize the incentives of the decentralized market process, whatever the area of economic activity. Thus, market inspection of the U.S. meat industry, when contrasted with the current system of federal regulation, is likely to reduce the incidence of illness associated with the consumption of unsafe meat.

Federal Meat Inspection—How It Began

The Meat Inspection Act of 1891 was a major landmark in federal regulation of meat and, indeed, of federal regulation of economic activity in the United States.[3] A review of the political economy of that era is helpful in understanding the impetus for government regulation. Most government intervention then and now, at least ostensibly, is in response to "market failure"—economic outcomes that fall short of "perfect competition." (All markets fail, of course, when measured against this criterion.)

Moreover, the 1891 act was instituted under false pretenses. It was a solution to a largely nonexistent problem—contaminated meat. There is no reliable evidence that tainted meat was a major factor in the adoption of the legislation. In a political-economic analysis of the era, Gary Libecap concludes that "the record does not indicate that the incidence of diseased cattle or their consumption was very great, and there is no evidence of a major health issue at that time over beef consumption."[4] Government meat inspection, once in place, however, like many other government regulations, was soon viewed as necessary to protect consumers.

There is a great deal of evidence that the political impetus for the 1891 legislation was the consequence of rapidly changing economic conditions. Market dominance by Chicago meat-packers—primarily Swift, Armour, Morris, and Hammond—quickly followed the introduction of refrigeration around 1880. Refrigeration allowed for centralized, large-scale, and lower-cost slaughterhouses because of production, distribution, and transportation advantages. The four large Chicago firms accounted for about 90 percent of the cattle slaughtered in Chicago within a decade after the introduction of refrigeration.

The Chicago packers fundamentally changed demand and supply conditions in the meatpacking industry. Small, local slaughterhouses throughout the country were rapidly displaced because they could not compete with the lower-cost Chicago packers. Local slaughter firms, in response, charged that Chicago packers used diseased cattle and that their dressed beef was unsafe. The disease issue, as bogus as it apparently was, threatened both domestic demand and export markets for U.S. meat. Cattle raisers, especially those in the midwest, backed federal meat inspection to promote demand.[5]

Cattle producers were also concerned about falling prices. Prices fell because the supply of cattle grew rapidly. But producers attributed the fall to their declining market power versus the Chicago packers—a charge that seemed credible because of the packers' size and concentration. Ostensibly to deal with the largely spurious allegations of unsafe meat and collusion by the Chicago packers, cattlemen, and local packers called for federal meat inspection and antitrust legislation. Enactment of the Sherman Act in 1890 and the Meat Inspection Act of 1891 were thus closely tied legislatively.[6]

The Jungle and the Meat Inspection Act of 1906

The famous Meat Inspection Act of 1906 also was heavily influenced by false charges. Ideas have consequences, and public policy can be influenced by a popular book, such as Upton Sinclair's *The Jungle*—regardless of its merits. The muckraking novel focused on greed and abuse among Chicago meat-packers and government inspectors.[7] The characters in *The Jungle* tell of workers falling into tanks, being ground up with animal parts, and being made into "Durham's Pure Leaf Lard."

Sinclair wrote *The Jungle* to ignite a socialist movement on behalf of America's workers. He did not even pretend to have actually witnessed or verified the horrendous conditions he ascribed to Chicago packing houses.

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Instead, he relied heavily on both his own imagination and hearsay. Indeed, a congressional investigation at the time found little substance in Sinclair's allegations.[8]

Nevertheless, the sensational allegations dramatically reduced the demand for meat. U.S. exports fell by half. Major meat-packers saw new regulations as the way to restore confidence, and they strongly endorsed the Meat Inspection Act of 1906, which expanded the scope of federal inspection to include smaller competitors.

Economic conditions back then were much different from today's. However, there is a lesson to be learned from that early period concerning government and free-market approaches to meat inspection.

The early legislation, for the most part, was not a response by government to a legitimate public-health threat. Congress enacted the 1891 act in response to political pressure by local meat-packers and cattle growers who felt victimized by the rise in power of the Chicago packers and by lower cattle prices. This legislation along with the Sherman Act and the Interstate Commerce Act, all enacted within a four-year period, represented a significant break with what had previously been considered an appropriate role for the federal government.[9]

The 1906 Meat Inspection Act, too, was largely a response to the meat industry's financial problems rather than to a health threat. The earlier spate of interventionist legislation, however, had provided a new mandate for government regulation of economic activity that facilitated the passage of the 1906 act. Thus, the case of federal meat inspection is yet another example of Ludwig von Mises's insight that government intervention almost inevitably leads to further intervention.

Pitfalls of Government Regulation

Thus government meat inspection, like most other economic regulation, was instituted mainly because of favor-seeking: the use of time and money to harness the power of government for private ends.[10] Favor-seeking is a negative-sum activity. The nation's output of goods and services decreases as resources are used to restrict competition rather than to expand production and exchange. Favor-seeking is just one example of "government failure."

Government intervention often is counterproductive because of information and incentive problems. The crucial economic problem confronting society is how to use people's specialized knowledge to best satisfy consumers. As Nobel laureate F.A. Hayek emphasized, government officials cannot obtain the information that motivates individual choice because that information, much of which is never articulated, is strongly linked to a particular time and place. Consequently, officials must base decisions on something other than the "public interest," if that term means the interests of the people who comprise the public.

Moreover, even if the information could be known, it is unlikely to be used most effectively. Government officials lack appropriate incentives because power and responsibility are separated. Those who make and administer laws do not bear the consequences of their actions, at least not to the same extent as private individuals. As shown below, markets generally are superior to government regulation because they cope better with information and incentive problems.

Dealing with Change

Related to the incentive problem is another flaw in the current system of meat inspection: the adverse effect of government regulation on innovation. That flaw is found in all alternatives to the decentralized market process.[11]

In the absence of the profit motive, individuals have less incentive to discover and implement new technology in the inspection and handling of meat. No one knows, of course, which new technology will ultimately prove beneficial in meat inspection or in any other area. However, in the marketplace, if an innovation proves to be profitable the person responsible for it will receive a large part of the reward. Things are quite different in a centralized system. Under government regula-

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tion, the government employee who discovers or adopts a potentially superior technology is likely to receive only a small amount of additional compensation. On the other hand, if the innovation doesn't pan out, he will lose much less than the entrepreneur in a profit-and-loss system.

This fundamental difference between markets and government is highly important to innovation in the meat industry. The heart of U.S. meat inspection continues to be the "poke and sniff" method that relies on the eyes and noses of some 7,400 Department of Agriculture inspectors. In 1997 a small Massachusetts company, SatCon Technology Corporation, working with a North Dakota-based group of ranchers, found a way to use lasers to find illness-causing pathogens such as E. coli and salmonella by scanning animal carcasses in slaughterhouses.[12] Such technological innovation has the potential to revolutionize meat inspection in the United States.

But it is more likely to be adopted in a free market than in a government-regulated market. Since it has the potential to dramatically reduce both the amount of labor currently used in meat inspection and the rationale for government regulation, it is inconsistent with two important goals of any bureaucracy: maintaining jobs and expanding its operation.

Market Competition Versus Government Regulation

The experience of government control of economic activity shows why government meat inspection is likely to be inferior to free markets. Private inspection firms, which must meet the market test, have a greater incentive to be effective than do government regulators. A private firm providing information to consumers about meat quality will reap profits when successful and incur losses when not. Thus, if a private meat-grading service were to become lax in satisfying consumers, meat firms no longer would be willing to pay for the service. Consequently, the private firm not only has an advantage in obtaining the necessary information; it also has a greater incentive to use it in the interest of the public weal.

Moreover, profit-seeking firms are likely to have a greater incentive than government regulators to adhere to quality standards. Government inspectors get to know the people operating the plants they regulate. Strict enforcement of standards might create hardship for those people. For example, if meat is considered to be of marginal quality but not to pose a significant health threat, regulators may be inclined to overlook such infractions. In short, when contrasted with market regulation, government regulators have a smaller incentive to enforce safety regulations.

Who Will Protect the Consumer?

Numerous studies have shown the benefits from privatization. It is quite likely that problems of food safety would be dealt with better through the decentralized market process, which provides a greater opportunity for both business firms and consumers to achieve their goals. Stated differently, the market process provides a greater incentive than government regulation for private firms and consumers to discover, disseminate, and use information about the quality of meat.

For one thing, government regulation gives consumers a false sense of security.[13] It leads them to assume that they are being protected by the government, reducing the incentive to do their own checking. Market methods of inspection, in contrast, give consumers a greater incentive to acquire information about the quality of meat. Consequently, they are likely to be more alert to potential problems of food safety.

It is true, of course, that meat may be contaminated when it appears to be safe. If sellers of meat have more information about quality than consumers do, can consumers look after their interests? Yes; uneven information does not imply that sellers have an incentive to sell unsafe meat. Consumers are protected by the sellers' economic interests.

The use of brand names, such as Armour or Swift, is one way that private firms assure quality standards for meat.[14] A brand name enables consumers to identify a firm's meat product and choose it over competitors.

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Hence, a firm with an established and valuable brand name has a strong financial incentive to adhere to quality standards.

A company responsible for selling contaminated meat can be quickly ruined by adverse publicity about its products. The recall of Hudson beef in 1997 left Burger King branches across the midwest without hamburgers. Following the recall, Burger King canceled their contract with Hudson Foods and announced that it would never buy from the company again—showing that it is strongly in the financial interest of business firms not to sell tainted meat.

Where quality is difficult for consumers to evaluate, little-known firms may benefit from the services of private inspectors to certify safety. There is considerable evidence that market forces can assure product quality without government regulation. Best Western, for example, is a private certification agency that enables travelers to identify motels that meet specified quality standards. Underwriters Laboratories establishes standards for electrical products, and tests them to see if they meet those standards. These examples show that firms frequently are willing to pay to assure customers that their products meet prescribed standards. The success of *Consumer Reports* and similar publications is further evidence that consumers are willing to pay to be informed.

Is meat inspection an exception to the rule that private firms generally perform more effectively than government? There are good reasons to think that market-based inspection of the meat industry could improve on the current system. Illness associated with contaminated meat often occurs with federal meat inspection. There is no way, of course, to prevent all food-related illness. Mistakes on the part of buyers and sellers, and some degree of fraud, are unavoidable whatever the institutional arrangement. The goal in meat inspection, as in other areas of economic activity, is to establish an institutional arrangement that provides and uses information in a way that best serves consumers. The free market generally is more effective than government regulation in doing so.

Why Not More Market Inspection of Meat?

We've seen that businesses and consumers are willing to pay to assure product quality. And, as emphasized throughout, it is apparent that private inspection agencies "have a lot going for them."[15] Yet, despite the ostensible advantages of the market approach, there is little reliance on market forces in meat inspection in the United States. Why does the meat industry not rely on market regulation more?

Market-generated information about the quality of meat undoubtedly would be much greater in the absence of government regulation. Government inspection tends to preempt market inspection, much as taxpayer-financed education crowds out privately funded schools, by reducing the incentives of sellers and buyers to look after safety on their own.[16] There is little demand on the part of meat handlers for services that would be provided by private firms in the absence of government inspection. Business firms are, of course, also happy to have the taxpayers pick up the tab for inspection.

Similarly, with assurances by the USDA (and the media) that government regulation is crucial to consumer safety, there is little impetus for consumers to change the current institutional arrangement. Moreover, when problems of meat safety occur, there is no discussion of "government failure." Instead, regulatory officials plead for more power. In the aftermath of the Hudson Foods incident, for example, Secretary Glickman requested additional authority to shut down food-processing plants and to impose fines of $100,000 per day on any plant not obeying his order.

There can be no guarantees when it comes to food safety. Indeed, zero risk is not a reasonable objective in any aspect of human action. There are two approaches to ensuring the safety of meat—market inspection and government regulation. It is ironic that the public expects government regulation, which has more imperfections than the competitive market process, to provide for meat safety.[17]

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Few people question the appropriateness of government regulation of the meat industry, even when they fault its effectiveness.

No one has a stronger interest in protecting consumers from tainted meat than the businesses in the industry. Ultimately, safety is best assured when rooted in the self-interest of business firms and consumers. □

1. Peter J. Howe, "New Laser May Identify Tainted Meat," *The Boston Globe*, 1997, http://yourhealthdaily.com/090497_110006_15810.html.

2. William C. Mitchell and Randy T. Simmons, *Beyond Politics: Markets, Welfare, and the Failure of Bureaucracy* (Boulder, Colo.: Westview Press, 1994).

3. Information presented here on the early history of meat inspection in the United States relies heavily on Gary D. Libecap, "The Rise of the Chicago Packers, and the Origins of Meat Inspection and Antitrust," *Economic Inquiry*, April 1992, pp. 242–62.

4. Ibid., p. 246.

5. Ibid., p. 244.

6. Ibid.

7. Lawrence W. Reed, "Of Meat and Myth," *The Freeman*, November 1994, pp. 600–02.

8. Ibid., pp. 600–01.

9. Libecap, p. 242.

10. Economists use the term "rent-seeking." James D. Gwartney and Richard L. Stroup, *Economics: Private and Public Choice*, 8th ed. (Orlando, Fla.: Harcourt Brace & Co., 1997), p. 102.

11. Milton Friedman, *Market Mechanisms and Central Economic Planning* (Washington, D. C.: American Enterprise Institute for Public Policy Research, 1981), p. 21.

12. Howe.

13. Randall G. Holcombe, *Public Policy and the Quality of Life: Market Imperfections Versus Government Planning* (Westport, Conn.: Greenwood Press, 1995), p. 105.

14. The discussion of quality standards draws on Holcombe, pp. 93–106.

15. Ibid., p. 101.

16. E. C. Pasour, Jr., "Consumer Information and the Calculation Debate," *The Freeman*, December 1996, pp. 780–86.

17. Mitchell and Simmons, p. 82.

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Drawing the Line

Socialism and communism have collapsed so completely that only a few holdouts refuse to acknowledge the rubble before their eyes. We've apparently reached "the end of history," as Francis Fukuyama labeled the postcold-war era a few years ago.

But appearances can deceive. Capitalism may look triumphant, but some people are clearly uncomfortable with the fact that it seems to be the only "ism" left standing. The search for a "third way" goes on. President Clinton used that very term in his state of the union address.

Authors Daniel Yergin and Joseph Stanislaw are also looking for that chimera. In their interesting new book, *The Commanding Heights: The Battle Between Government and the Marketplace That Is Remaking the World,* they wonder where our era will set the "frontier between government and marketplace." (See Mark Skousen's column on p. 313 for a pleasant surprise about this book.) It is ironic that in thinking about the world on the brink of the new millennium, they are thinking in such old terms. They discuss the frontier between government and marketplace in analog terms, as though that line can be adjusted in infinitely small steps. The task, as they see it, is to find just the right position, where marketplace and government balance each other and each prevents abuse by the other.

But we live in the digital age! Analog thinking is inappropriate in so many areas of life—including the politico-economic realm. A digital device deals with ones and zeroes. A switch in a computer chip is either open or closed. There is no in-between, no range of adjustment, no third way.

What does this have to do with government and the marketplace? A great deal. When we focus on the nature of state and economy, we see that the framework is digital, not analog. Let me explain. George Washington was to have said that "government is not reason or eloquence. It is force." When you come right down to it, all government can do is compel. Every activity it undertakes ultimately relies on coercion. If you take away its power to tax, what is left? Regulations would be mere suggestions if the officers of the state did not have prisons, guns, and the legal authority to use them. Government does not produce or create; it appropriates and transfers what others produce and create.

In contrast, the marketplace *is* reason and eloquence. It is an environment in which people try to better their circumstances by offering to better those of others. A proffer is an act of persuasion. A price, someone said, is an argument. The marketplace is productive and creative. Think about what happens there. Production is actually transformation. A successful entrepreneur transforms pre-existing factors—labor, machines, land, raw materials—into a finished whole for which people are willing to pay more than they would pay for all the separate parts. The entrepreneur's profit is the difference between those two prices, his reward for figuring this all out. Contrariwise, losses represent the consumers' penalizing an

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entrepreneur for "misusing" the factors by turning them into a less valuable form.

State and market, then, are opposites, embodying, respectively, force and creativity. That is why the mission to finely adjust the frontier between the two, as Yergin and Stanislaw wish, is misconceived. It is not a shade of gray that we should be seeking, but the bright line between force and reason (creativity). Force is appropriate only against force. Leonard Read captured the proper conception of the scope of market and government in the words "Anything that's peaceful." As he wrote, "[L]et anyone do anything he pleases that's peaceful or creative; let there be no organized restraint against anything but fraud, violence, misrepresentation, predation. . . . [L]eave all else to the free, unfettered market!"

The frontier between the state and market has only one right position, precisely at the point that leaves people free to do as they will so long as they recognize the same right held by everyone else. □

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A Number, Not a Name: Big Brother by Stealth

by Claire Wolfe

When Representative Dan Schaefer of Colorado held a consumer protection seminar in October 1997, he thought he was going to educate constituents about guarding their privacy against con artists. Instead, it was Schaefer who got an education.

"My concern with privacy," snapped the first person to rise for a question-and-answer session, "is what the damn government is doing to me."

A flood of comment followed—nearly all of it about laws passed by Schaefer's own 104th Congress, controlled by Republicans, and signed by President Clinton, a Democrat. Together, considering the information and technology at the government's disposal, these laws create the most comprehensive identification and citizen-tracking system ever imposed on any country. Yet they have received little attention in the mainstream media and in some cases were passed with little or no debate in Congress.

In the Beginning Was the ID Card

Since 1996 the United States has had a mandate for a de facto national ID card. It takes effect October 1, 2000. Public Law 104-208 (Division C, Title VI, Subtitle D, Section 656) says that for identification, federal agencies may only accept state drivers' licenses or other documents that display or are linked to Social Security numbers and that have security features supposedly to discourage tampering or counterfeiting. Any time you wish to receive a service from the federal government, you will be required to produce this license or a similar nondriver ID. No alternates will be accepted.

It is important to note that PL 104-208 contains 468,937 words—about four times the size of an average novel. The national ID provision occupies approximately one page. How many people knew it was even there?

Insecurity Features

Secretary of Transportation Rodney Slater has not published his proposed regulation on security features. (The law required him to do so by September 30, 1997.) However, we already know that these features will not consist of innocuous items like those in the recently redesigned currency. They will contain, among other things, your biometric identifiers.

The American Association of Motor Vehicle Administrators (AAMVA), the group assisting Slater with design of the card, has already made this apparent via state laws being passed at their behest. Some 28 states have begun, or are proposing, to change their drivers' licenses since the federal law was passed. Changes and proposals include digitally encoded fingerprints; digital, computer-readable photo; digitally encoded retinal scan; and other forms of biometric ID.

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These, or similar features, will be on your license in the form of bar codes, magnetic strips, and, eventually, silicon chips (smart cards). In December 1997 the AAMVA announced that fingerprints were its currently favored form of biometric ID.

Only the Beginning

Bar codes and magnetic strips enable the driver's license to carry a significant amount of data about your life. The card becomes a mini-databank containing such electronically readable information as your driving record, employment, age, sex, race, Social Security number, and criminal record. The most sophisticated cards will have the capability to contain far greater amounts of data, which might include your health history, education records, job history, DNA scans, and virtually anything else the government decides to legislate into the license, or a bureaucrat decides to regulate into it.

Those data will be available to anyone with the capability of scanning your card. Yet the card itself is not the biggest problem. The far larger problem lies in the databases a Social Security number-based ID can unlock. By making the card a carrier of a "unique identifier" for every citizen, the federal government has created a nightmare. And the nightmare is made flesh by other provisions passed by the 104th Congress.

Buried in both Public Law 104-208 and Public Law 104-193 (the Welfare Reform Act of 1996) are similar provisions requiring development of scannable Social Security cards. If this doesn't seem ominous in its own right, it becomes so when connected with another hidden element of PL 104-208. The law orders pilot programs in which job-seekers will be required to obtain the permission of the federal government before being allowed to work (Division C, Title IV, Subtitle A, Sections 401-404). The machine-readable Social Security card will be used to transmit the potential employee's ID to Washington and to receive an okay from the Social Security Administration.

Moreover, the Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191), much ballyhooed in the media as "moderate" health-care reform, dictates national "standards" for the electronic transmission of all personal medical data. *Standards* seems an innocuous term. However, the law specifies that every individual's medical data will be stored and transmitted under a "unique identifier." These standards were ordered in the name of preventing abuses of medical data. However, by placing every American's records into one form, with one identifying number for each individual, Congress made abuse not only easier, but inevitable. In fact, the law carries built-in blueprints for abuse. For example, you have no right to forbid your private information to be transmitted as the government orders. You have no right to inspect your own transmitted data or correct it. The law does, however, guarantee access to a variety of government agencies and "researchers." Although, once again, the proposed standards have not been published, it's a virtual certainty that your Social Security number will be used as your "unique identifier" in this system.

In other words, your Social Security number—which had been gradually turning into an unofficial universal ID number for decades—becomes the key to a vast new store of personal information about your life.

But, still, these invasions of privacy aren't the most serious problem.

The Biggest Invasion of All

As the Welfare Reform Act was on its way to becoming law, left-liberals, conservatives, and the media alike hailed one of its provisions—the "Deadbeat Dads' Database." Nearly everyone agreed that tracking down deadbeat, absentee parents was a good idea. Except . . . that's not what the database does.

If you were designing a system to track nonpaying, noncustodial parents (leaving aside the constitutional issue of whether the federal government has authority to do any such thing), how would you do it? The least obtrusive way, of course, would be to wait until an absentee parent had missed at least one child-support payment, then enter infor-

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mation about the parent in the database. But by then the absentee might have disappeared.

The next logical course, somewhat more obtrusive to responsible parents, but more effective, would be for court clerks to enter every child-support judgment into a local database at the time it is issued. The parent who owes child support could then be required either to make payments through the court or to report periodically to the court. If the parent failed to do so, police could be quickly issued an order to contact the noncomplying parent. When the children had matured and the obligation ended, the parent's name would be removed from the record.

The database Congress created has no connection whatsoever with child-support judgments. It has nothing to do with parenthood in any manner. It is, quite simply, a permanent record of every person hired by any company in America, anywhere, at any time—filed by Social Security number. The "new hires database," as it is more properly called, tidily lets many a self-employed "deadbeat" slip through the cracks. Yet at the same time it sweeps in the single and childless, devoted married couples, great-grandparents, and every other category of productive worker. Clearly, the purpose of this database never was, isn't, and never will be to track "deadbeat dads." It is to track citizens, particularly working citizens—those whom the federal government increasingly regards as its "resources."

Furthermore, Section 317 of the Welfare Reform Act requires that, as a condition of receiving federal welfare funds, states must "establish procedures requiring that the Social Security number of any applicant for a professional license, commercial driver's license, recreational license, occupational license, or marriage license be recorded on the application." A year later, the word *commercial* was removed, applying the regulation to the nation's 180 million drivers.

Once the states pass their enabling legislation, no American will even be able to get a fishing license, get married, or become a hairdresser without the information being immediately available to government agencies across the land.

Taken together, these databases, ID cards, and programs will become a citizen-monitoring system that would have been the envy of the old Soviet Empire or Nazi Germany. Yet there is more already on the books. And there is certainly more to come.

Other Sections of the Maze

The School to Work Opportunities Act of 1994, passed by the Democratic Congress in Clinton's first two years, has many cheerleaders in the education community and was promoted to the public as a solution to the long-standing problem of children's leaving school unprepared for work. In reality, however, the act requires local schools to supply data to the secretaries of labor and education for the School to Work program's "labor-market identification system." Although it is benignly worded, this all sounds ominous, as though students are national resources and the federal government is needed to oversee the work force for the benefit of industry.

Furthermore, as British scholar Sean Gabb noted in his well-researched 1994 essay on the national ID issues: "In the United States . . . the education system is fast acquiring a national network of electronic student records. Its purpose is to allow the exchange of information between various agencies, both public and private, and the continuous tracking of individuals through school and higher education, through the armed forces, through the criminal justice system, through their civilian careers, and through their use of the medical services."[1]

Right now the databases contain an "electronic portfolio" of students' work, teacher assessments, and Social Security numbers. But Gabb notes that the National Education Goals Panel (NEGP), set up under Goals 2000, has recommended that other information be included, such as health information, poverty status, after-school activities, employment, and voter-registration status. The panel also identifies other "data elements useful for research and school management purposes," including how many people live in a student's home, the relationship of those people, and the education level of "primary care-givers."

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Gabb writes that the records are available to private agencies. "In *Together We Can*, a book published jointly by the U.S. Department of Education and the U.S. Department of Health and Human Services, there is talk of 'overcoming the confidentiality barrier,'" he writes. "The purpose of the new databases is to give all agencies 'ready access to each other's data.'"

With this in mind, it should be noted that recent changes in tax law also require that every child have a Social Security number in order to be claimed as a deduction on a parent's tax return. As of this year, there are no alternative means of "proving" the existence of your child. Whether the specific recommendations of the NEGP are implemented or some other, equally intrusive proposal one day becomes law, what do you think will be used as a "unique identifier" in childhood databases?

Speaking of those growing databases: in mid-1997 President Clinton proposed creation of a federal registry of all children's vaccinations, stating that "most people" can't track their children's medical records, even when it may have "something to do with whether their children live or die." Not a single parent, teacher, or physician's group spoke out in protest of this stunning assumption about the stupidity and carelessness of the average American parent.

Finally, bills under consideration by Congress are ominous. HR 231 would make the Social Security card every American's photo ID. Second, according to Scott McDonald of Alabama's Fight the Fingerprint, the Voter Eligibility Verification Act, HR 1428, would permit states to require people to provide Social Security numbers when they register to vote. Furthermore, the bill would establish a "Voter Eligibility Confirmation System" to be maintained by the attorney general's office in cooperation with the Social Security Administration. Third, again according to McDonald, HR 1998, the Yates Firearm Registration and Crime Prevention Act would require everyone who owns a firearm to register it with the federal government within one year after the effective date of the act. To register, you must submit your "name, age, address, and Social Security number, name of the manufacturer, the caliber or gauge (as appropriate), the model and type, and the serial number identification (if any) of the firearm." The application for a firearm permit must be "on a written application that contains a photograph and fingerprints of the applicant." (This bill appears to be languishing.)

All the laws discussed have been passed or proposed in the name of "safety," "security," "anti-fraud," "crime control," or "stopping illegal immigrants." The federal government cannot force the states to adopt ID and tracking systems. It has done something even more powerful—threatened to withhold tax dollars from those that don't comply and rewarded those that do with bonus millions. Every state in the nation is adopting the new-hires database and Social Security number requirements for licensing. Every state will be forced by sheer necessity to adopt the national ID license.

But Why Worry?

Some may say, "Well, good. It's about time they found some way to stop illegal aliens, deadbeats, and criminals." Others will react, "Gee, I'd like to have my health record on my driver's license in case I'm in an accident or something." Or, "Criminals ought to have their records where police can easily get them." And then there is the standard: "Why should I worry about the government having information about me? I don't have anything to hide."

But those responses, all of which imply face-value acceptance of the federal government's claims of "security," ignore the long-term harm that will inevitably come from a national ID and database system.

You should worry because all these laws work together for one purpose, and that purpose is to control your life. Every one of these measures implies government ownership of the information about your life—and by projection, of your life itself. They imply that we are subjects, not citizens. Serfs, not free people. Cattle, not independent and equal humans.

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Every one of these measures implies government ownership of the information about your life—and by projection, of your life itself. They imply that we are subjects, not citizens.

By assuming it has the unlimited right to collect and maintain data on us, to require us to use numbering systems and ID systems of its design, and to track its "human resources" as it sees fit, the federal government is treating us precisely as a modern farmer treats his herds. Certainly, he wants them to be healthy, to be grazing in the right pasture at the right moment, to be secure against predators . . . but he wants them most emphatically to be under his constant watch and control.

You should worry because innocent errors or deliberate corruption could cost you everything you've ever worked for. For instance, once the pilot job ID program becomes national policy, if your Social Security card fails to scan, you may not be able to get a job anywhere in the United States. A card could fail to scan for many innocent reasons. Or, if you are a political activist, a rival of a government contractor, or some other form of "undesirable," your card could fail to scan because someone hacked the system or tagged your Social Security file. It could take months, even years, to straighten out innocent errors.

An error in your health records could indicate that you were mentally ill. In that case, you might lose your gun rights or your job. A political opponent could use your nonexistent "illness" against you in a variety of ways. How many more horrors can result from incorrect or "fiddled" data?

You should worry because accurate data can harm you, too. As Sean Gabb has pointed out, even accurate data can easily be used against you. In Britain there have already been incidents in which smokers were denied health care. Gabb cites one case in which the child of a smoker was denied dental care until his parent ceased using cigarettes. The information on the parents' habits was in a national database.

The potential for discrimination by government against people on the basis of their habits, sexual orientation, health history, or other factors is enormous. While a national ID card might never result in mass slaughter, as in Nazi Germany, it could result in such things as quotas that would deny medical care to elderly or overweight people.

You should worry because your alleged representatives feel themselves bound by no restraints at all—neither by the Constitution nor your opinion. The Constitution gives the federal government no authority to pass any of this legislation. But Congress discarded the Constitution long ago. And it is passing sweeping laws in such a way as to keep them largely invisible to you until it is too late.

And if these things don't worry you . . . Here's one small practical reason to oppose these federal efforts at control. They'll do nothing whatsoever to make anyone more secure. On the contrary, as quickly as the new driver's license systems are being put online, they are being compromised. In two states, thieves rapidly broke in and stole the computer systems that produce the "secure" ID. In California, Department of Motor Vehicle employees were arrested for selling black-market "secure" ID cards.

Every database can be hacked. Employees can be bribed. The most sophisticated card can be faked. By establishing systems that some people will have to evade merely to survive, and by driving ordinary privacy lovers to desperation, these laws actually create more law-breaking and entirely new classes of criminals.

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Opposition Grows

Across the nation, citizens are mobilizing to fight their state's rendition of the national ID card. Three of the earliest and most active groups are in Georgia, Alabama, and Washington.[2] However, their efforts will lead to a dead end. If a state refuses to comply with federal ID requirements, its citizens will not be able to get passports, welfare, or Social Security, among other services.

This might bring a momentary smile to libertarians (like me) who would like to see such federal services abolished. Unfortunately, it would also leave most citizens of the rebellious states crying for ID chains and the tax-funded "security" that comes with them.

Even among activists carrying on the battle "within the system," there is another, deeper element to the struggle. Unnoted by the media, a solid resistance movement is forming under and around the polite activism. As states introduce their enabling legislation for the new ID, and as activists gradually lose the battle, we can expect to see literally millions of Americans take steps to drop out, circumvent, or monkey-wrench the numbering and database systems.

Many fundamentalist Christians believe they will literally lose their souls if they accept a universal ID number, seeing it as a sign of the Antichrist. (Revelation 13:16-17: "And he causeth all, both small and great, rich and poor, free and bond, to receive a mark in their right hand, or in their foreheads. And that no man might buy or sell, save he that had the mark, or the name of the beast, or the number of his name.") Many nonreligious activists and freedom-seekers have simply declared this to be their line in the sand. As one commented, "Slaves to one side; free people to the other. I know which side I'm on, no matter what damn laws they pass." □

1. "A Libertarian Conservative Case Against Identity Cards," by Sean Gabb. First published by the Libertarian Alliance, London, 1994, as Political Notes 98. Available on the Internet at http://freespace.virgin.net/old.whig/idcards.html.

2. The Alabama Fight the Fingerprint organization maintains the best all-round web site on this subject at http://www.networkusa.org/fingerprint.shtml. If you visit, be sure to check their recently updated record on all state driver's license requirements at http://www.networkusa.org/fingerprint/page4/fp-04-page4-winners losers.html. Other sites of interest: the Georgia Coalition to Repeal the Fingerprints Law at http://www.atlantainfoguide.com/repeal and Washington State Citizens Against National ID at http://home.earthlink.net/~idzrus/opwid.html.

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—EDMUND BURKE

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Economics

Social Cooperation, Good Intentions, and Incentives

(Editor's Note: This is the first installment of Professor Lee's new monthly column.)

Although each of my *Freeman* columns will stand alone, let me emphasize at the outset that economics is far more than a series of unrelated concepts. Economics provides a coherent and powerful framework for seeing order in the seemingly unrelated actions of hundreds of millions of individuals as they struggle to improve their lot in life.

Improving our circumstances is always a struggle because of the fundamental problem of scarcity. All economic concepts are rooted in the problem of scarcity. No matter how productive we become, there always will be limits on what we can accomplish. Each individual confronts the fact that he must choose among many different ways to use his time and talents, and he makes those choices to achieve his particular purposes. No one else can know as much about another person's purposes as that person himself. So while we may not understand the actions of others, we can be confident that they are doing the best they can to realize their objectives; from their own perspectives, they are acting rationally.

The Power of Economics

But economics is more than just a consideration of how individuals improve their well-being. The power of economics comes from the fact that the implications of scarcity and rational decision-making allow us to understand how certain social institutions make productive cooperation possible among large numbers of people, each of whom is concerned primarily with achieving a better life. This explanatory power goes back to Adam Smith, who elaborated on the connections between "the invisible hand" and the "Wealth of Nations." It was Smith who first explained systematically how the social institutions of the free market encourage the creation of wealth by motivating people concerned with their own interests to behave in ways that best serve the interests of others.

In some respects, the economics profession has made little progress since Adam Smith. Economists have been ineffective at communicating to the public the tremendous benefits we all realize from the cooperation promoted by the free market, or the threat to that cooperation from the political influence of organized interest groups. In part, this failure can be explained by the difficulty of the task. The benefits of the market are spread so wide in the form of lower prices, improved products, and better opportunities that they tend to go unnoticed or be taken for granted. Because the benefits are primarily the indirect and unintended consequences of the actions of millions of individuals, people fail to connect those benefits to their source.

In contrast, political benefits tend to be concentrated in visible ways and are easily connected to the intentional actions of particular people, while the damage done is spread over

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the entire economy and difficult to trace back to its cause. But economists could have done more to promote a widespread understanding and appreciation of economic fundamentals. Even in their teaching, professional economists tend to focus on the trees of technical details while overlooking the impressive forest of market cooperation and coordination.

But in other ways, economists have made much progress since Adam Smith. While technical economic concepts can divert economists into analytical minutia, when appropriately used, these concepts improve our economic understanding in important ways. For example, the concept of comparative advantage extends Adam Smith's insight into the benefits of free trade. The concept of marginalism (which, among other things, drained the "labor theory of value" swamp in which Smith and Karl Marx became mired—Marx more so than Smith) explains a wide range of economic activity that most people find puzzling. Those, and many other economic concepts can help economists better explain the power of the market to promote a pattern of social cooperation impossible under any other arrangement. Communicating this power as widely as possible is one of the most important contributions economists can make. I shall connect the discussion in each column back to the goal of social cooperation.

The Problem of Achieving Cooperation

Despite the common belief that economists are interested only in narrow material concerns, they are primarily concerned with explaining how the spontaneous market process expands the opportunity for people to achieve their objectives, no matter what they are, through cooperation with one another. Whether your goal is accumulating personal wealth, protecting the environment, or assisting the needy, you will be more successful if you can enlist the cooperation of others.

But how do you enlist this cooperation, given the variety of conflicting goals people are intent on pursuing? Reformers usually believe that social cooperation depends on appealing to people to put aside their narrow personal ambitions (such as amassing personal wealth) and concentrate on promoting broad social goals (such as protecting the environment or helping the needy). Achieving more social cooperation requires more virtuous people. The great economist Ludwig von Mises explained in *Human Action* (page 2):

> If social conditions did not fulfill the wishes of the reformers, if their utopias proved unrealizable, the fault was seen in the moral failure of man. Social problems were considered ethical problems. What was needed in order to construct the ideal society, they thought, were good princes and virtuous citizens. With righteous men any utopia might be realized.

In contrast, good economists realize that, regardless of one's idea of "virtue," cooperation through the division of labor and exchange—the kind that people engaged in long before there were economists and moral philosophers—is what creates a better society.

Good Intentions Are Not Enough

Without denying the desirability of people behaving "virtuously," economists see it as largely unrelated to social cooperation on a broad scale. Attempts to change behavior with conventional moral appeals are sometimes frustrated, and even if people were persuaded to put the "interests of the larger community" ahead of their own, the problem of knowing how best to do so would remain.

Economists recognize that people will behave consistently in ways that are simultaneously self-interested and socially cooperative only when market incentives are permitted to reward that behavior. But this means that not just any incentives will do; they have to be incentives that embody information on the best course of action. Next month I will examine the effect of incentives on human action. □

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Herbert Dow and Predatory Pricing

by Burton Folsom

One of the sacred cows of statism is the idea that government needs to protect us from predatory price-cutting. Large corporations, according to this argument, have big advantages in the marketplace. They can cut prices, drive out their competitors, then raise prices later and gouge consumers. Antitrust laws are needed, so the argument continues, to protect small businesses and consumers from those corporations with large market shares in their industries.

The story of Herbert Dow, founder of Dow Chemical Company, is an excellent case study for those who think predatory price-cutting is a real threat to society. Dow, a small producer of bromine in the early 1900s, fought a price-cutting cartel from Germany. He not only lived to tell about it; he also prospered from it.

Born in 1866, Dow was a technical whiz and entrepreneur from childhood. His father, Joseph Dow, was a master mechanic who invented equipment for the U.S. Navy. He shared technical ideas with Herbert at the dinner table and the workbench in their home in Derby, Connecticut. He showed Herbert how to make a turbine and even how to modernize a pin factory. Whether Herbert was selling vegetables or taking an engine apart, his father was there to encourage him.

Dow's future as an inventive chemist was triggered during his senior year at the Case School of Applied Science when he watched the drilling of an oil well outside Cleveland. At the well site he noticed that brine had come to the surface. The oil men considered the oozing brine a nuisance. One of them asked Dow to taste it. "Bitter, isn't it," the driller noted. "It certainly is," Dow added. "Now why would that brine be so bitter?" the driller asked. "I don't know," Dow said, "but I'd like to find out." He took a sample to his lab, tested it, and found it contained both lithium (which helped explain the bitterness) and bromine. Bromine was used as a sedative and also to develop film. This set Dow to wondering if bromine could be extracted profitably from the abundant brine in the Cleveland area.

The key to selling bromine was finding a way to separate it cheaply from brine. The traditional method was to heat a ton of brine, remove the crystallized salt, treat the rest with chemicals, salvage only two or three pounds of bromine, and dump the rest. Dow thought this method was expensive and inefficient. Why did the salt—which was often unmarketable—have to be removed? Was the use of heat—which was very expensive to apply—really necessary to separate the bromine? And why throw the rest of the brine away? Were there economical methods of removing the chlorine and magnesium also found in brine? The answers to these questions were important to Dow: the United States was ignoring or discarding an ocean of brine right beneath the earth's surface. If he could extract the chemi-

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cals, he could change America's industrial future.

Professor Dow

After graduation in 1888, Dow took a job as a chemistry professor at the Huron Street Hospital College in Cleveland. He had his own lab, an assistant, and time to work out the bromine problem. During the next year, he developed two processes—electrolysis and "blowing out." In electrolysis he used an electric current to help free bromine from the brine; in blowing out he used a steady flow of air through the solution to separate the bromine. Once Dow showed he could use his two methods to make small amounts of bromine, he assumed he could make large amounts and sell it all over the world.

The next 15 years of bromine production were a time of testing for Dow. He started three companies. One failed, one ousted him from control, and the third, the Dow Chemical Company, struggled to survive after its founding in Midland, Michigan, in 1897.

The bromine market seemed to have potential, but Dow never had enough money because nothing ever worked as he expected it to. Electrolysis was new and untested. His brine cells were too small, and the current he passed through the brine was too weak to free all the bromine. When he strengthened the current, he freed all the bromine, but some chlorine seeped in, too. Instead of being frustrated, Dow would later go into the chlorine business as well. After all, people were making money selling chlorine as a disinfectant. So could Dow. Meanwhile, the chlorine and bromine were corroding his equipment and causing breakdowns. He needed better carbon electrodes, a larger generator, and loyal workers.

Dow found himself working 18-hour days and sleeping at the factory. He had to economize to survive, so he built his factory in Midland with cheap local pine and used nails sparingly. "Crazy Dow" is what the Midland people called him when he rode his dilapidated bike into town to fetch supplies. Laughs, not dollars, were what most townsfolk contributed to his visionary plans. To survive, Dow had to be administrator, laborer, and fundraiser, too. He looked at his resources, envisioned the possible, and moved optimistically to achieve it.

For Dow Chemical to become a major corporation, it had to meet the European challenge. The Germans in particular dominated world chemical markets in the 1800s. They had experience, topflight scientists, and monopolies in chemical markets throughout the world. For example, the Germans, with their vast potash deposits, had been the dominant supplier of bromine since it first was mass-marketed in the mid-1800s. Only the United States emerged as a competitor to Germany, and then only as a minor player. Dow and some small firms along the Ohio River sold bromine, but only within the country.

About 30 German firms had combined to form a cartel, *Die Deutsche Bromkonvention*, which fixed the world price for bromine at a lucrative 49 cents a pound. Customers either paid the 49 cents or they went without. Dow and other American companies sold bromine in the United States for 36 cents. The *Bromkonvention* made it clear that if the Americans tried to sell elsewhere, the Germans would flood the American market with cheap bromine and drive them all out of business. The *Bromkonvention* law was, "The U.S. for the U.S. and Germany for the world."

Dow entered bromine production with these unwritten rules in effect, but he refused to follow them. Instead, he easily beat the cartel's 49-cent price and courageously sold America's first bromine in England. He hoped that the Germans, if they found out what he was doing, would ignore it. Throughout 1904 he merrily bid on bromine contracts throughout the world.

A Visit from the Cartel

After a few months of this, Dow encountered in his office an angry visitor from Germany—Hermann Jacobsohn of the *Bromkonvention*. Jacobsohn announced he had "positive evidence that [Dow] had exported bromides." "What of it?" Dow replied. "Don't you know that you can't sell bromides abroad?" Jacobsohn asked. "I know nothing

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of the kind," Dow retorted. Jacobsohn was indignant. He said that if Dow persisted, the *Bromkonvention* members would run him out of business whatever the cost. Then Jacobsohn left in a huff.

Dow's philosophy of business differed sharply from that of the Germans. He was both a scientist and an entrepreneur: he wanted to learn how the chemical world worked, and then he wanted to make the best product at the lowest price. The Germans, by contrast, wanted to discover chemicals in order to monopolize them and extort high prices for their discoveries. Dow wanted to improve chemical products and find new combinations and new uses for chemicals. The Germans were content to invent them, divide markets among their cartel members, and sell abroad at high prices. Those like Dow who tried to compete with the cartel learned quickly what "predatory price-cutting" meant. The *Bromkonvention*, like other German cartels, had a "yellow-dog fund," which was money set aside to use to flood other countries with cheap chemicals to drive out competitors.

Dow, however, was determined to compete with the *Bromkonvention*. He needed the sales, and he believed his electrolysis produced bromine cheaper than the Germans could. Also, Dow was stubborn and hated being bluffed by a bully. When Jacobsohn stormed out of his office, Dow continued to sell bromine, from England to Japan.

Before long, in early 1905, the *Bromkonvention* went on a rampage: it poured bromides into America at 15 cents a pound, well below its fixed price of 49 cents and also below Dow's 36 cents. Jacobsohn arranged a special meeting with Dow in St. Louis and demanded that he quit exporting bromides or else the Germans would flood the American market indefinitely. The *Bromkonvention* had the money and the backing of its government, Jacobsohn reminded Dow, and could long continue to sell in the United States below the cost of production. Dow was not intimidated; he was angry and told Jacobsohn he would sell to whomever would buy from him. Dow left the meeting with Jacobsohn screaming threats behind him. As Dow boarded the train from St. Louis, he knew the future of his company—if it had a future—depended on how he handled the Germans.

On that train, Dow worked out a daring strategy. He had his agent in New York discreetly buy hundreds of thousands of pounds of German bromine at the 15-cent price. Then he repackaged and sold it in Europe—including Germany!—at 27 cents a pound. "When this 15-cent price was made over here," Dow said, "instead of meeting it, we pulled out of the American market altogether and used all our production to supply the foreign demand. This, as we afterward learned, was not what they anticipated we would do."

Dow secretly hired British and German agents to market his repackaged bromine in their countries. They had no trouble doing so because the *Bromkonvention* had left the world price above 30 cents a pound. The Germans were selling in the United States far below cost of production, and they hoped to offset their U.S. losses with a high world price.

Instead, the Germans were befuddled. They expected to run Dow out of business; and this they thought they were doing. But why was U.S. demand for bromine so high? And where was this flow of cheap bromine into Europe coming from? Was one of the *Bromkonvention* members cheating and selling bromine in Europe below the fixed price? The tension in the *Bromkonvention* was dramatic. According to Dow, "The German producers got into trouble among themselves as to who was to supply the goods for the American market, and the American agent [for the Germans] became embarrassed by reason of his inability to get goods that he had contracted to supply and asked us if we would take his [15-cent] contracts. This, of course, we refused to do."

More Price-Cutting

The confused Germans kept cutting U.S. prices—first to 12 cents and then to 10.5 cents a pound. Meanwhile, Dow kept buying cheap bromine and reselling it in Europe for 27 cents. These sales forced the *Bromkonvention* to drop its high world price to match Dow and that further depleted the *Bromkonvention*'s resources. Dow, by contrast, improved his for-

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Herbert Dow

eign sales force, often ran his bromine plants at top capacity, and gained business at the expense of the *Bromkonvention* and all other American producers, most of whom had shut down after the price-cutting. Even when the *Bromkonvention* finally caught on to what Dow was doing, it wasn't sure how to respond. As Dow said, "We are absolute dictators of the situation." He also wrote, "One result of this fight has been to give us a standing all over the world. . . . We are . . . in a much stronger position than we ever were." He added that "the profits are not so great" because his plants had trouble matching the new 27-cent world price. He needed to buy the cheap German bromides to stay ahead, and this was harder to do once the Germans discovered and exposed his repackaging scheme.

The bromine war lasted four years (1904–08), when finally the *Bromkonvention* invited Dow to come to Germany and work out an agreement. Since they couldn't crush Dow, they decided to at least work out some deal so they could make money again. The terms were as follows: the Germans agreed to quit selling bromine in the United States; Dow agreed to quit selling in Germany; and the rest of the world was open to free competition. The bromine war was over, but low-priced bromine was now a fact of life.

Dow had more capital from the bromine war to expand his business and challenge the Germans in other markets. For example, Dow entered the dye industry and began producing indigo more cheaply than the dominant German dye cartel. During World War I, Dow tried to fill several gaps when Germany quit trading with the United States. Aspirin, procaine (now better known by its trademark name, Novocain), phenol (for explosives), and acetic anhydride (to strengthen airplane wings) were all products Dow began producing more cheaply than the Germans did in the World War I era. As he told the Federal Trade Commission when the war began, "We have been up against the German government in competition, and we believe that we can compete with Germany in any product that is made in sufficient amount, provided we have the time and have learned the tricks of the trade."

Move to Magnesium

Dow's favorite new chemical from the war was magnesium. Magnesium, like bromine and chlorine, was one of the basic elements found in Michigan brine. Dow hated throwing it away and had tried since 1896 to produce it effectively and profitably. As a metal, magnesium was one-third lighter than aluminum and had strong potential for industrial use. Magnesium was a chief ingredient in products from Epsom salts to fireworks to cement.

Unfortunately for Dow, the Germans had magnesium deposits near New Stassfurt. So while he was struggling, the Germans succeeded in mining magnesium and using it as an alloy with other metals. In 1907, they had formed the *Chloromagnesium Syndikat*, or the Magnesium Trust.

Even before the war, Dow began pouring more capital into magnesium, but only during the war did he begin selling his first small

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amounts. After the war, Dow still could not match Germany's low cost of production, but he refused to give up. Instead, he plowed millions of dollars into developing magnesium as America's premier lightweight metal. Part of his problem was the high cost of extracting magnesium; the other problem was the fixation most businessmen had with using aluminum.

The Germans had mixed feelings as they watched Dow struggle with magnesium. On one hand, they were glad to still have their large market share. On the other hand, they were nervous that Dow would soon discover a method to make magnesium more cheaply than they could. Their solution was not to work hard on improving their own efficiency, but to invite Dow to join them in their magnesium cartel and together fix prices for the world.

In a sense, of course, the Germans were paying Dow the strongest compliment possible by asking him to join them, not fight them. What's interesting, though, is that through the battles with bromine, indigo, phenol, aspirin, and procaine, the Germans persisted in their strategy of using government-regulated cartels to fix prices and control markets. They continued to believe that monopolies were the best path to controlling markets and making profits.

Dow must have been flattered by the German offer, but he refused to join the Magnesium Trust. He had already shown the world that his company—by trying to make the best product at the lowest price—could often beat the large German cartels. Predatory price-cutting, the standard strategy of the German chemical cartels, failed again and again. By using the strategy, the Germans unintentionally helped the smaller Dow secure capital, capture markets, and deliver low prices for his products around the world. □

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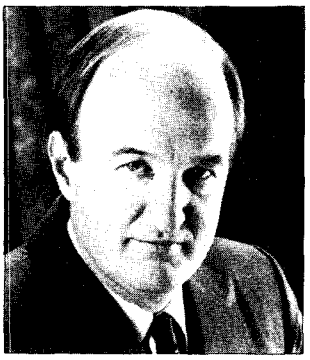

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THE FREEMAN
MAY 1998

Today's Most Influential Economist?

"But half a century later, it is Keynes who has been toppled and [_____], the fierce advocate of free markets, who is preeminent."
—DANIEL YERGIN and JOSEPH STANISLAW,
The Commanding Heights[1]

Fill in the blank. Who is the mysterious economist named above? Most of my colleagues named Milton Friedman, but in Daniel Yergin and Joseph Stanislaw's best-seller, the Chicago economist runs a close second to. . . .

F.A. Hayek, the Austrian economist!

Why Hayek? Because, according to Yergin and Stanislaw, Hayek has done more than any other economist to debunk socialism in its many forms—Marxism, communism, and industrial planning—and to promote free markets as an alternative system. Hayek's influence perfectly illustrates John Maynard Keynes's remark that politicians, "madmen in authority," are the "slaves of some defunct economist."[2]

Indeed, Hayek's influence has been ubiquitous. As Yergin and Stanislaw point out, *The Road to Serfdom* greatly affected Margaret Thatcher in reforming Great Britain and raised doubts about industrial planning. Hayek's criticisms of Keynesianism (*A Tiger by the Tail*) called into question deficit spending and the ability of the state to fine-tune the economy. His theory of decentralized knowledge and competition as a discovery process has had an impact on microeconomic theory and experimental economics. His work on the trade cycle and the denationalization of currencies has influenced monetary policy. His co-founding of the Mont Pelerin Society spread the gospel of free markets, property rights, and libertarian thought throughout the globe.[3]

A Surprising Victory

Yergin and Stanislaw's revelation in *The Commanding Heights: The Battle Between Government and the Marketplace That Is Remaking the World* is a monumental victory for Austrian economics. It is all the more remarkable given Yergin's background as an establishment journalist and author of *The Prize*, a Pulitzer Prize-winning book about big oil.

At the beginning of this decade, I argued in *Economics on Trial* that the "next economics" would be the Austrian model, with its focus on entrepreneurship, microeconomics, dereg-

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ulation, savings, free enterprise, and sound money.[4] But even I am surprised how rapidly Hayek and the Austrian school have achieved recognition.

The next step is to see how quickly the economics profession absorbs Austrian economics in its theories and textbooks. A quick review of the current top-ten textbooks reveals only two with significant entries on Hayek and the Austrians: Roy Ruffin and Paul Gregory's sixth edition of *Principles of Economics*, and James Gwartney and Richard Stroup's eighth edition of *Economics: Private and Public Choice*. Ruffin and Gregory give credit to Hayek (and Mises) for the fall of socialism, one of Ruffin and Gregory's "defining moments in economics." Curious note: Ruffin and Gregory's fifth edition had no references to Hayek or Mises; clearly Ruffin and Gregory are quick to recognize a paradigm shift.

Other textbook writers are not so prescient. Samuelson's 16th (50th anniversary) edition highlights only Joseph A. Schumpeter. Textbooks by David Collander, John Taylor, and Joseph Stiglitz cite Hayek only once, while top sellers by Roger LeRoy Miller; Michael Parkin; William Baumol and Alan Blinder; Campbell McConnell and Stanley Brue; and Paul Heyne make no references to Hayek and the Austrians.

A Tale of Two Cities

Yergin and Stanislaw rightly point to two schools of free-market economics responsible for the shift from government to private enterprise as the solution to world economic problems. "And the eventual victory of this viewpoint was really a tale of two cities—Vienna and Chicago," declare the authors.[5]

In the judgment of many economists, Milton Friedman and the Chicago school have had even a greater influence than Hayek and the Austrians. Yergin acknowledges Friedman as "the world's best-known economist," noting that "the Chicago School loomed very large" in its sway on monetarism at the Federal Reserve and economic policy (under Ronald Reagan). And, of course, all top-ten textbooks in economics have significant sections on Friedman and his theories (monetarism, natural rate of unemployment, welfare reform, privatization). Friedman and the Chicago school have mounted an effective counter-revolution to Keynesianism.

The Great U-Turn

But Keynes's principal rival in the 1930s was Hayek. Teaching at the London School of Economics, Hayek defended the classical model of thrift, balanced budgets, the gold standard, and free markets, while Keynes (Cambridge University) promoted the "new economics" of consumption, deficit spending, easy money, and big government. Keynes won the first battle for the hearts of economists, and his brand of "mixed economy" swept the profession. Hayek fell out of favor and went on to write about law and political science. The task of dethroning Keynes fell to Friedman; he has accomplished it masterfully.

Since winning the Nobel Prize in economics in 1974, Hayek and the Austrians have had a rebirth. Equally, Friedman and the Chicago school have come out of obscurity into prominence. Fifty years ago the Keynesian-collectivist consensus expressed the sentiment, "The state is wise and the market is stupid." Today, the growing consensus is just the opposite: "The market is wise and the state is stupid."

Break out the champagne. It's time to celebrate. □

1. Daniel Yergin and Joseph Stanislaw, *The Commanding Heights: The Battle Between Government and the Marketplace That Is Remaking the Modern World* (Simon & Schuster, 1998), p. 15.

2. John Maynard Keynes, *The General Theory of Employment, Interest and Money* (London: Macmillan, 1936), p. 383.

3. For a good overview of Hayek's works, see *The Essence of Hayek*, ed. Chiaka Nishiyama and Kurt R. Leube (Stanford, Calif.: Hoover Institution, 1984). For a partial autobiography, see *Hayek on Hayek* (Chicago: University of Chicago Press, 1994). A full-scale intellectual biography of Hayek has been completed by Alan Ebenstein, *Hayek: Philosopher of Libertarianism* (forthcoming).

4. Mark Skousen, "The Next Economics," *Economics on Trial* (Baldwinsville, N.Y.: Irwin, 1991), pp. 274–90.

5. Yergin and Stanislaw, p. 141. See my *Freeman* column, "Vienna and Chicago: A Tale of Two Schools," February 1998.

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BOOKS

Fair Play: What Your Child Can Teach You About Economics, Values, and the Meaning of Life

by Steven E. Landsburg

Free Press • 1997 • x + 230 pages • $24.00

Reviewed by Donald J. Boudreaux

It's impossible not to relish a book whose author, early on and with only slight rephrasing, reveals the real message in the famous Bismarckian maxim from John Kennedy's inaugural address: "Ask not what I can do for you. Ask what you can do for me." Upon reading this line, I knew that the next 200 pages would be immense fun.

And fun they are! But they are also impressively educational. With *Fair Play,* Steven Landsburg, who teaches economics at the University of Rochester, cements his reputation as one of today's foremost economics teachers. The most important lesson Landsburg teaches is that the amount of insight extractable from a handful of basic economic postulates is unlimited. (I don't doubt that if F.A. Hayek and Adam Smith were alive each would glean additional economic insights from this book.)

Learning economics is no stair-step procedure in which you first master the basics and then move on to conquer more elaborate modeling techniques. While this is the way economics is taught in universities, it isn't the way we really come to *know* economics. To truly understand economics is to remain firmly planted in the basics, training yourself always to examine every facet of reality through the lenses supplied by these basics. When you do this, you realize three things. First, no matter how thoroughly you understand economics today, you understand it more deeply tomorrow. Second, anyone over the age of 15 with a modicum of common sense can grasp sound economic explanations. And third, almost any human institution is better understood if examined with the mental tools supplied by basic economics.

Among the many slivers of reality that Landsburg illuminates with the klieg light that is his economic understanding are environmental conservation, income redistribution, the choice of a career, and the choice of a spouse. (On choosing a spouse, Landsburg abhors the idea that his daughter would marry a perfect husband: "A perfect husband is a costly extravagance. Most costly extravagances turn out to be mistakes.")

Indeed, Landsburg teaches his readers economics and ethics by relating how he and his ten-year-old daughter Cayley teach each other economics and ethics. For example, he advises Cayley that she would be wrong to steal toys from a playmate who owned more toys than she. She would be equally wrong, Dad makes clear, to join with a majority of her other playmates to forcibly take toys from the wealthier child. The lesson for adults is obvious: "if your kids aren't allowed to get away with something, neither you nor your congressman should be allowed to get away with it either."

In this light, many Americans today are the moral equivalent of schoolyard bullies.

Cayley herself is quite the economist. When her father, in an unguarded moment, inferred from her enthusiasm for shopping that she loves money, she retorted in the way that the young Frederic Bastiat might have replied to such an accusation: "*Dad!* The *reason* I like to shop and buy things is to get *rid* of my money." Consumption is truly the end of all economic activity!

For me, the most fascinating pages of the book feature Landsburg's discussion of Jim Crow legislation. Of course, it's standard practice today among America's Concerned Elite to cite this legislation to justify today's race-based policies that give special privileges to blacks. Opponents of affirmative action typically retort that most of the whites who benefited from Jim Crow legislation are now dead.

Landsburg condemns affirmative action on grounds more economically sweeping: Jim Crow hurt not only blacks of a century ago—it also hurt most whites!

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> Jim Crow prevented blacks from dealing with whites, and it also prevented whites from dealing with blacks. Who would want to argue that being denied the right to trade with white people is a form of oppression, but being denied the right to trade with black people is no big deal?

When I first read this argument I simultaneously exulted in my new-found understanding, and suffered chagrin that I'd not thought of this argument on my own. But what then *did* occur to me is that this same argument applies as well to slavery. As vile as slavery was to those enslaved, it also harmed nonslaves who owned no slaves. Slaves were prevented by law from choosing their own productive specialties and, hence, from employing their creativity and efforts in the market in ways that would have made not only them, but also all with whom they would have dealt, better off. While it's incontestable that black slaves were slavery's premier victims, they weren't its only victims: nonslave-owning whites were injured by that abominable practice. Slavery's only beneficiaries were the tiny fraction of the population who owned slaves.

Most books crammed with substance offer several nits for the picking. In *Fair Play*, though, I find only one. Landsburg argues that minimum-wage legislation is bad only because it is an unfair tax on entrepreneurs. He dismisses the standard case that legislated minimum wages hurt unskilled workers. His dismissal, in my view, fails.

But picking even one nit with such a remarkable book seems unbecoming. Read and relish *Fair Play.* Steven Landsburg's grasp of economics is herculean. □

Donald Boudreaux is president of the Foundation for Economic Education.

Rediscovering American Values

by Dick DeVos

Dutton • 1997 • 306 pages • $24.95

Reviewed by George C. Leef

"If you want to make a point, tell a story." In *Rediscovering American Values*, Dick DeVos, president of Amway Corporation, puts this old advice to excellent use. The theme of his book is that freedom and the many benefits that flow from it cannot exist unless the people of a society adhere to certain values (and, by implication, reject their corresponding disvalues). Each chapter is about one of the values that the author regards as important to nurture—the "values that provide the very foundation of freedom." In each instance, he illustrates his point with stories of real human beings.

That is what makes this book work.

Consider, for example, one of the stories the author employs to show the value of brotherhood. Francis Aebi and Tamaki Ninomiya were neighbors in northern California in 1941. Both grew roses and sold them in the flower market in San Francisco. After Pearl Harbor, the Ninomiya family was split up and sent off to the internment camps where Americans of Japanese ancestry were imprisoned during the war. Prior to his arrest, Ninomiya gave Aebi, a man of Swiss ancestry, his bankbook and a prized family possession—a Japanese doll. Aebi promised to do his best to look after his neighbor's property.

In 1942, government officials ordered flower growers to grow vegetables instead. This required the considerable task of clearing away the beloved rosebushes and planting vegetables. Aebi cleared not only his own land, but also the Ninomiyas'. Throughout the war, Aebi sold his own produce and that which he grew on the Ninomiya farm, carefully depositing the income from the latter sales into the Ninomiya bank account. He also preserved and tended a few of the rosebushes.

Imagine the emotions that swept over Tamaki Ninomiya when he was finally allowed to return to his home in 1946. While the property of many internees had been looted, his stood

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in perfect condition. The family doll was returned. His bank account had even grown.

Francis Aebi had done, DeVos emphasizes, "the right thing." He had no obligation to do anything for Ninomiya and might have gained personally from the great misfortune that had befallen his neighbor. But he acted with kindness and compassion—brotherhood—to lessen the suffering of the Ninomiya family. He made the world just a little bit better, simply because he knew he should.

Many of the stories in *Rediscovering American Values* demonstrate the remarkable ability of people to solve problems without even thinking the word "government," much less trotting off to ask that it tax or regulate something. Cleaning up the environment, overcoming prejudice, helping people to get off and stay off drugs or alcohol, educating the hard to educate: De Vos politely refutes the common assumption that the individual is powerless to accomplish anything. If you know anyone afflicted with the "voluntary action is old-fashioned" disease, this book is the cure.

Honesty, reliability, fairness, compassion, courage, humility, reason, self-discipline, optimism, commitment, initiative, work, perseverance, accountability, cooperation, stewardship, encouragement, forgiveness, service, charity, leadership, opportunity, education, and brotherhood—these are the values that Dick DeVos believes are necessary for the preservation of freedom. Although he does not say so, the decline of freedom in the United States can be directly traced to a decline in those values. Those who do not see the value of work are apt to seek welfare; those who are lacking in courage will seek government guarantees; those who feel no sense of brotherhood will lobby for government favors for themselves at the expense of everyone else.

The great work in front of all of us is to find ways to reverse America's slow and steady decline. With this clear and easily accessible book, Dick DeVos has shouldered some of the load. □

George Leef is book review editor of The Freeman *and coordinates FEE's Freeman Society discussion clubs.*

In Restraint of Trade: The Business Campaign Against Competition, 1918–1938

by Butler Shaffer

Bucknell University Press • 1997 • 284 pages • $42.50

Reviewed by Burton Folsom

In Restraint of Trade is an excellent book that deserves a large readership among historians, economists, and politicians. Butler Shaffer effectively challenges the traditional historical argument that government during the early 1900s regulated big business in "the public interest." In truth, as Shaffer ably shows, most businessmen in the 1920s and 1930s wanted government regulation to protect their companies from talented entrepreneurs who were giving consumers better products at lower prices. In other words, American businessmen followed the path predicted by Adam Smith when he observed, "People of the same trade seldom meet together, even for merriment and diversion, but the conversation ends in a conspiracy against the public, or in some contrivance to raise prices."

The late 1800s and early 1900s were a time of growing national and international markets. In business after business, chain stores and improved transportation increased competition. For consumers, this was good news: they had more products to choose from at lower prices. Sellers, by contrast, had to innovate and improve their products to stay in business. Faced with this challenge, many of them preferred to organize, merge, or consolidate to better control prices and retain their market shares. The snag with this strategy was that bigness in a free market is no guarantee of success. Large corporations often became bureaucratized and lost their creative edge. U.S. Steel, International Harvester, and American Sugar Refining were all examples of large merger-driven corporations that lost market shares steadily throughout the early 1900s.

Shaffer sees World War I as a critical time when larger corporations—through the War

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Industries Board—discovered they could use government to set prices, stifle competition, and guarantee a steady market for whatever they sold. Bernard Baruch, chairman of the WIB, commented on the advantages (to sellers, not buyers) of cartelization: "Many businessmen have experienced during the war, for the first time in their careers, the tremendous advantages, both to themselves and to the general public, of combination, of cooperation and common action, with their natural competitors."

During the 1920s, with wartime controls lifted, most businessmen were thrust back in the free market again. Now they tried to use trade associations to prop up prices and divide markets among the members. These codes would often condemn "cutthroat competition" and talk about establishing prices that would be both "customer friendly" and provide a "fair return on investment." After analyzing these codes, Shaffer observes that "The essential factor to keep in mind regarding a study of business code making is the overriding concern of businesses to protect *themselves*—not the *customer*—from the effects of aggressive competitive practices." Without the force of government, however, these attempts to write binding codes always failed—cost-cutters and innovators in industry after industry found ways to beat the trade association standards and attract more customers.

The New Deal, Shaffer argues, was the golden opportunity for businesses to use government to protect themselves from competition. Roosevelt's National Recovery Act (NRA) allowed businessmen throughout the country to fix prices, hours of work, and wages for their industries. According to *Business Week* at the time, "Washington hotels rejoice and Cabinet members groan over the wild rush of business men to the capital to find out about the new industrial plan. They want to know everything, but mostly how to punish the rascal who has been cutting prices in their industry, and how to fix some nice new prices."

Shaffer specifically looks at steel, coal, oil, retailing, and textiles to show how the stodgy majority imposed a variety of controls on their industries. Even though the Supreme Court struck down the NRA in 1935, many businessmen since then—in industries from railroads to airplanes to sugar production—have worked through Congress and various regulatory commissions to maintain high prices, dispense quotas to members, and restrict the actions of innovative competitors.

Shaffer emphasizes the collaboration between business and government in the New Deal era "to provide the coercion essential for holding together a collectivized industrial order." He concludes that "Legislative inroads into economic life were occasioned *not* by the failure of the market to provide order and discipline but by the market's general immunity to being corrupted for the benefit of special interests. The purpose of such legislation, including the NRA legislation, was to repress and stabilize competitive conditions—to ossify industries and restrain those influences that represented the threat of change."

Parts of Shaffer's argument have been advanced by historians Gabriel Kolko, William Leuchtenburg, Ellis Hawley, and Alfred Chandler, Jr. But Shaffer pulls together these many threads, knits them together with his own craftsmanship, and produces a sturdy and original garment that wears well and is likely to be durable over time. □

Burton Folsom is senior fellow at the Mackinac Center for Public Policy, a free-market think tank in Midland, Michigan.

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Salt Without Savor

Suppose that Microsoft hired people to pose as ordinary job applicants at Netscape. When hired by Netscape, their mission would be to disrupt and sabotage production, file as many complaints as possible against Netscape alleging noncompliance with workplace regulations imposed by the Occupational Safety and Health Act (OSHA), the National Labor Relations Act (NLRA), the Family and Medical Leave Act (FMLA), the Fair Labor Standards Act (FLSA), and any other applicable regulations. Their goal would be to drive Netscape out of business or, failing that, to cripple the ability of Netscape to compete with Microsoft. If the antitrust people at the Department of Justice think that Microsoft should pay a $1 million per-day penalty for merely integrating its Internet Explorer web browser with Windows, they or the people at the Justice Department would probably try to send Bill Gates to jail for such espionage.

Again, suppose that the Nissan Motor Company plant in Tennessee hired people to infiltrate the United Auto Workers (UAW) union local. Their job would be to spy on all union activity and try to foment dissension and strife throughout the rank-and-file union members. Their goal would be to shut the union local down or, failing that, to make it impossible for the union to gain representation privileges at Nissan (which it has been trying to get for years). The National Labor Relations Board (NLRB) would be outraged. It would move swiftly to convict Nissan of unfair labor practices and impose the most severe sanctions the law permits.

Union Privilege

Finally, suppose that the UAW hired people to pose as regular job applicants at Nissan. Their job would be identical to that of the hypothetical Microsoft agents. They would try to damage the firm as much as possible through disruptions and acts of sabotage. They would try to impose as many legal costs on the firm as possible by alleging OSHA, NLRA, FMLA, and FLSA violations. Their goal would be to force Nissan to capitulate to unionization or, failing that, to drive Nissan out of business in the United States. The NLRB and the U.S. Supreme Court would . . . approve! When it comes to unions, there is no equality under law. Rather, different legal principles apply to unions. They have special privileges and immunities not available to most other economic organizations. The Fourteenth Amendment to the Constitution insists on "equal protection of the laws." Congress and the Supreme Court have said, "Except for unions."

In the 1995 *Town & Country Electric* case, the Supreme Court ruled that people paid by unions to become employees in order to subvert the firms that hire them—"salts" in the jargon of labor relations—must be considered "employees" under the NLRA. That

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means that firms cannot discriminate against salts in hiring and firing. They must ignore that the salts are paid by unions and intend to act solely in the unions' interest and to the detriment of the firms. Since salts are hired by and act as agents of unions, the court decision in effect gives unions the status of employees under the NLRA. That is contrary to the original understanding of the NLRA, which was that unions could organize and represent employees, who were working in the interest of employers.

If a firm fires or refuses to hire a person because he is a salt, or even fails to promote that person, it is guilty of an unfair labor practice. Defending against such a charge is very expensive. For example, from 1994 through 1997 Corey Delta Constructors in Benicia, California, had to pay more than $200,000 a year to defend itself against charges connected with a salting campaign by the AFL-CIO's Construction Organizing Membership Education Training (COMET) program. In the end, Corey Delta was driven off a major construction project in the San Francisco Bay area merely because it was, and remains, a union-free firm.

The Roots of Salting

The COMET program was undertaken by the AFL-CIO in 1993 in response to the declining market share of unionized labor in the construction industry. In 1983 the unions' market share was 30 percent. In 1993 it was 20 percent, and by 1996 it was 19 percent.

Union organizing in the construction industry is a special case. Most workers in that industry are employed by different companies from project to project. In 1959, the NLRA was amended to permit employers to enter "prehire" agreements with unions under which firms would agree to hire only unionized labor. Workers in other industries are at least permitted to vote on union representation, but construction workers were unionized from the top down. Under the prehire agreements, workers were told if they didn't accept union representation, without a vote, they couldn't work. In 1987, the NLRB ruled in the *Deklewa* case that when a prehire agreement expires the contractor returns to a union-free status unless a majority of continuing workers vote to be represented by the union. (The NLRB was not as union-friendly as it is now.) Under *Deklewa*, construction unions no longer had the advantage of top-down organizing. Instead, they had to persuade workers to vote in favor of unionization just as unions in most industries must do.

In the 1992 *Lechmere* case the U.S. Supreme Court complicated the organizing efforts of all unions by ruling that employers did not have to give job-site access to union organizers who are not employees. This is particularly burdensome to construction unions because the job sites constantly change.

In an act of political entrepreneurship, the construction unions reverted to salting. The *Lechmere* decision restricts only union organizers not employed by firms. The obvious way around the decision is to have union-paid organizers become employees. The principle of equal protection under law would not countenance such subversion, but in the *Town & Country Electric* decision the Supreme Court allowed unions to subvert union-free employers with impunity.

Since that case was decided as a matter of statutory interpretation, not constitutional law, Congress can overrule the Court by amending the NLRA. The Truth in Employment Act, which is under consideration in both houses of Congress, would do just that. However, there is little chance that it could survive a filibuster in the Senate and no chance that it could survive a presidential veto. Rectification of this injustice will have to wait until the 21st Century. □

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SWIMMING AGAINST THE TIDE is the exciting new book by Clarence B. Carson, long time contributor to *The Freeman*, author of *A Basic History of the United States*, and much else besides. It contains an account of Dr. Carson's of his life and times, told only as an experienced writer can do, has choice selections from his voluminous writings, both published and unpublished, and concludes with an annotated list of his more than 555 books, booklets, pamphlets, articles, columns, and reviews. The book has 4 sections.

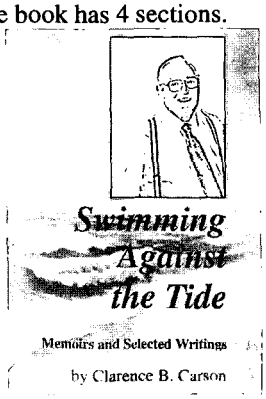
Section I, *Reminiscences*

This autobiographical section is the longest in the book, comprising about 40 percent of it. Among its contents are:

- Origins and Upheaval
- Coming of Age in Rural Alabama
- Entering the Broader World and It at War
- Higher and Higher Education
- A Professor in College
- Swimming Against the Tide
- Writer and Entrepreneur

Section II, *Satire, Humor & Rejoinders*

The satires, some of which are hilarious side splitters and leave the fabric of socialism in tatters, have never been published before. Most of the rejoinders and some of the humor has. This section comprises about 21 percent of the book. Among its contents are:



- The Redistribution of Sex
- Government Food Dispensaries
- A Modest Proposal for Conserving Energy
- The Invention of the Committee
- Creative Unemployment
- The Medicine was Free, but the Needle was Dull
- Reformer Watching, Anyone?
- There Ought *not* to be a Law
- How to Make Money, or, If Governments Can Do It, Why Can't We?

And other equally intriguing articles.

Section III, *The Best of Carson*

Here is Dr. Carson at his most serious, thoughtful and most careful reasoner. These essays comprise about 31% of the book. Among the contents are:

- The Lesson in Morning Glories
- Being Paid not to Work
- The Power to Tax IS the Power to Destroy
- Reasoning on the Nature of Things
- The Dilemmas of Public Education
- The Constitution and Paper Money

And 16 more powerful pieces.

Section IV, *Bibliography of Carson Writings*

Comprises 7% of the book.

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